

1  
2                   **EXHIBIT C1**  
3  
4

5/17/2021 Notice of Submission of Case Coordination  
4

5                   See Seven TOC Members Representing FVT AND Certain Other Plaintiffs  
6                   Within Policy Limits Settlement Negotiations  
7  
8

9                   See Exhibit 2, pg. 1-2, 4, 7, 21  
10  
11

12                   See Addendum A, "Plaintiff's Executive Committee," pg. 1-3  
13  
14

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**EXHIBIT C1: "Notice of Submission for Coordination"**

1 MICHAEL A. KELLY (State Bar #71460)  
mkelly@walkuplawoffice.com  
2 KHALDOUN A. BAGHDADI (State Bar #190111)  
kbaghdadi@walkuplawoffice.com  
3 **WALKUP, MELODIA, KELLY**  
**& SCHOENBERGER**  
4 650 California Street, 26th Floor  
San Francisco, CA 94108  
5 Telephone: (415) 981-7210  
Facsimile: (415) 391-6965

**ELECTRONICALLY  
FILED**  
*Superior Court of California,  
County of San Francisco*  
**05/17/2021**  
**Clerk of the Court**  
**BY: JUDITH NUNEZ**  
**Deputy Clerk**

ANNE ANDREWS (Bar No. 103280)  
aandrews@andrewsthornton.com  
JOHN C. THORNTON (Bar No. 84492)  
jct@andrewsthornton.com  
SEAN T. HIGGINS (Bar No. 266888)  
shiggins@andrewsthornton.com  
ROBERT S. SIKO (Bar No. 312856)  
rsiko@andrewsthornton.com  
**ANDREWS & THORNTON**  
4701 Von Karman Ave, Suite 300  
Newport Beach, California 92660  
Telephone: (949) 748-1000  
Facsimile: (949) 315-3540

ATTORNEYS FOR PLAINTIFF JOHN K. TROTTER,  
JR., TRUSTEE OF THE PG&E FIRE VICTIM TRUST

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 COUNTY OF SAN FRANCISCO

18 JOHN K. TROTTER, JR., Trustee of the  
PG&E Fire Victim Trust,

Case No. CGC-21-589441

## **NOTICE OF SUBMISSION FOR COORDINATION**

Action Filed: January 28, 2021  
Trial Date: Unassigned

21 ACRT PACIFIC, LLC; ACRT, INC.,  
22 DAVEY RESOURCE GROUP, INC.;  
23 DAVEY TREE EXPERT COMPANY;  
24 DAVEY TREE SURGERY COMPANY;  
OSMOSE UTILITIES SERVICES, INC.;  
and DOES 1 through 25, inclusive.

### Defendants.

27 TO THE CLERK OF COURT AND TO ALL PARTIES AND THEIR  
28 RESPECTIVE COUNSEL OF RECORD:

1        You are hereby notified that on January 4, 2018, the Honorable Curtis E.A.  
2 Karnow, Judge of the San Francisco Superior Court and assigned Coordination Trial  
3 Judge of Judicial Counsel Coordination Proceeding No. 4955 ("JCCP 4955"), entered  
4 an Order Granting Petitions for Coordination and Staying Cases. A true and correct  
5 copy of that Order is attached hereto as Exhibit 1.

6        On March 6, 2018, Judge Karnow entered Case Management Order No. 1 in  
7 JCCP 4955. A true and correct copy of that Order is attached hereto as Exhibit 2.

8        You are hereby notified that on May 17, 2021, Petitioner John K. Trotter, Jr.,  
9 Trustee of the PG&E Fire Victim Trust submitted a Stipulated Petition for  
10 Coordination of Add-On Cases to JCCP 4955 (the "Petition") seeking coordination of  
11 the present action. A true and correct copy of the Petition is attached hereto as  
12 Exhibit 3.

13       Pursuant to California Rule of Court, Rule 3.544, the Coordination Trial Judge  
14 may enter an order granting the Petition if no party files a notice of opposition within  
15 ten days after service of the Stipulation.

16

17 Dated: May 17, 2021

WALKUP, MELODIA, KELLY & SCHOENBERGER

18

19

By:



MICHAEL A. KELLY  
KHALDOUN A. BAGHDADI  
Attorneys for PLAINTIFF JOHN K.  
TROTTER, JR., TRUSTEE OF THE PG&E  
FIRE VICTIM TRUST

20

21

22

23

24

25

26

27

28

# EXHIBIT 1

**FILED**  
San Francisco County Superior Court

JAN 4 - 2018

CLERK OF THE COURT  
BY: *[Signature]*  
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA**  
**COUNTY OF SAN FRANCISCO**

**COORDINATION PROCEEDING  
SPECIAL TITLE [RULE 3.550]**

***California North Bay Fire Cases***

Included actions:

*See appended list (Appendix B)*

Judicial Council Coordination  
Proceeding No.: 4955

**ORDER GRANTING PETITIONS FOR  
COORDINATION AND  
STAYING CASES**

**Procedural Background<sup>1</sup>**

Beginning on October 8, 2017, several fires started in northern California. Some merged with each other and some did not. Over 50 lawsuits have been filed seeking to hold PG&E Corporation and/or Pacific Gas & Electric Company (PG&E) liable.

On October 31, 2017, the *Harvell* Plaintiffs<sup>2</sup> filed a petition seeking to coordinate all actions arising out of what have been termed the North Bay Fires in the Superior Court, San Francisco County. Other plaintiffs have joined in this. On November 9, 2017, PG&E filed a petition<sup>3</sup> seeking to coordinate the actions arising out of the North Bay Fires in five clusters, with

<sup>1</sup> A plain English summary of this order is appended at Appendix A.

<sup>2</sup> The *Harvell* Plaintiffs include 107 plaintiffs spread across seven actions, six of which were filed in San Francisco County Superior Court and one of which was filed in Sonoma County Superior Court. Harvell Memorandum in Support of Petition for Coordination, 2.

<sup>3</sup> At the time PG&E's petition was filed, there were fifteen subject actions, including the actions subject to the *Harvell* petition. PG&E's Petition for Coordination ¶¶ 6(a)-(o). Of those actions, ten were filed in San Francisco, four were filed in Sonoma, and one was filed in Napa. *Id.* PG&E has subsequently filed two add-on petitions. On December 5, 2017, PG&E requested that 32 additional actions be added. Of these, eighteen were filed in San

proceedings to be held in the county where, assertedly, most of the damage was caused by the several underlying fires. PG&E asks that some of the cases be assigned to counties that, at least as of now, have no pertinent cases.

Following a directive from the Chair of the Judicial Council, the Presiding Judge of this court assigned me as the coordination motion judge. On December 1, 2017, I assigned the eight additional included actions contained in PG&E's petition to this coordination motion.

On December 1, 2017, the *Koven* Plaintiffs<sup>4</sup> filed a petition for coordination of the actions arising out of the Tubbs Fire in a separate coordinated proceeding in Sonoma County.<sup>5</sup>

On December 8, 2017, the *Hay* Plaintiffs<sup>6</sup> filed their petition for coordination of all actions arising out of the North Bay Fires in San Francisco.<sup>7</sup> On December 11, 2017, the *Butler* Plaintiffs<sup>8</sup> filed a petition in support of the *Harvell* Plaintiffs' petition by which the *Butler* Plaintiffs requested their actions be coordinated in one proceeding in San Francisco. In a December 13, 2017, the *Olds* Plaintiffs<sup>9</sup> endorsed coordinating all actions in San Francisco. That day the *Atlas* Fire Plaintiffs<sup>10</sup> filed papers arguing that *Atlas* Fire should be assigned to a distinct coordinated proceeding in Napa County. A few days later Plaintiff Taylor Waldon filed papers

---

Francisco, eleven were filed in Sonoma, and three were filed in Napa. PG&E Notice of Submission of Add-Ons, 2-4. On December 15, 2017, PG&E filed a second add-on petition with nine additional actions. Of those, six were filed in San Francisco and one in Sonoma. PG&E's Second Notice of Potential Add-On Cases, 2-8.

<sup>4</sup> The *Koven* Plaintiffs include five individuals who filed a single action. See *Koven* Petition, 1-2. The *Koven* petition encompasses 37 actions, including twenty filed in San Francisco, sixteen in Sonoma, and one filed in Napa. *Id.* at 2-7. At argument, the *Koven* plaintiffs on reflection modified their written recommendation to have all the cases coordinated in one locale—Santa Rosa, Sonoma County.

<sup>5</sup> There is no order that formally consolidates the *Koven* petition with the present petitions. However, the *Koven* petition relates to the same cases and substantially mirrors one aspect of PG&E's proposal.

<sup>6</sup> The *Hay* Plaintiffs include fourteen plaintiffs spread across seven actions, and the *Hay* petition included 55 actions. This included actions already subject to the petitions filed by the *Harvell* Plaintiffs and PG&E.

<sup>7</sup> There is no order that formally consolidates the *Hay* petition with the present petition. However, the *Hay* petition relates to the same cases and substantially mirrors the *Harvell* Plaintiffs' proposal.

<sup>8</sup> The *Butler* Plaintiffs include nine plaintiffs, each of whom filed separate actions. Eight of the actions were filed in San Francisco. The remaining action was filed in Sonoma.

<sup>9</sup> The *Olds* Plaintiffs include a class action and approximately seven plaintiffs spread across two actions, both of which were filed in San Francisco. At argument I heard that at least one more class action is likely to be filed.

<sup>10</sup> The *Atlas* Fire Plaintiffs include 21 individuals and a winery, each of whom suffered damage from the *Atlas* Fire, which occurred primarily in Napa County.

to have the Tubbs Fire cases coordinated as a separate proceeding in Sonoma, and Plaintiff Valerie Evans filed papers agreeing with PG&E's '5 cluster' argument. On December 20, 2017, the Subrogation Insurers<sup>11</sup> filed a brief in support or a single coordinated proceeding in San Francisco, as did the *Benham* Plaintiffs<sup>12</sup> on December 22, 2017.

On January 2, 2018 I heard argument on certain petitions for coordination.

### Cases At Issue

After the Chair of the Judicial Council ordered the appointment of a coordination motion judge, a variety of filings revealed further cases subject to coordination. Some of those were potential add-on cases noticed December 5 and 15, 2017, others the subject of petitions or responses to petitions filed between December 12 and 29, 2017, and yet others just listed as potential add-ons. These are all listed as such in Appendix B to this order, in a listing created by PG&E at my request. My review of the papers and argument does not suggest that any of these cases should be treated differently from the original included actions, e.g., those designated by orders of the Chair of the Judicial Council dated November 13 and 27, 2017, and accordingly my order applies to each case listed in Appendix B below. CRC 3.531(b). If a party contends that it had insufficient notice of the coordination and is not properly an add-on case, it may file a motion before me not later than January 24, 2018, and thereafter should bring its concerns to the attention of the coordination trial judge assuming one is appointed.

### Discussion

Coordination is governed by C.C.P. §§ 404 and C.C.P. § 404.1 *et seq.* See also CRC 3.520 *et seq.* See generally *Ford Motor Warranty Cases*, 11 Cal.App.5th 626, 629 (2017). All

---

<sup>11</sup> The Subrogation Insurers had filed a total of three complaints as of the date of their brief.

<sup>12</sup> The *Benham* Plaintiffs include 78 plaintiffs spread over six actions.

parties correctly agree (i) the actions are complex, and (ii) coordination is appropriate. The only issue is whether there should one or more coordinated proceedings. CRC 3.530.

A. *Predominance of common questions of law or fact.* Parties favoring a single proceeding argue that the cases will focus on PG&E's high level policies and its preparedness for weather events such as the high winds present in the region when the fires started on October 8, 2017 or shortly after.<sup>13</sup> Parties favoring separate proceedings argue that the cases depend on the precise mechanism causing a given fire.<sup>14</sup>

(1) *Common issues.* These include PG&E's policies and practices, including those regarding (a) the electrification of lines during high wind conditions, (b) the sorts of maintenance required of vegetation and of lines and poles; (c) training practices that apply to the multiple PG&E inspectors responsible for various types of maintenance. All the fires started in the same region under the same or similar (high wind) weather conditions. There is likely to be a substantial overlap as among the PG&E witnesses and documents, as well as the experts, as among all the cases.

(2) *Individual issues.* There are fire-specific variations in the facts to be adduced, such as the mechanism that caused each fire, and the conduct of third parties that may have contributed to each fire. It is possible that a given set of general policies may be found reasonable with respect to one fire and negligent with respect to another, given the differing circumstances, also suggesting individual issues. We do not now know if fire-specific discovery will track PG&E's 5 fire proposal, or some other pattern, because it may be that what we now term one fire will have multiple ignition sources presenting multiple factual inquires; indeed PG&E recommends

---

<sup>13</sup> Harvell Memorandum, 7-8; Joinder, 5; Hay Memorandum, 5-7; Olds Response, 5-6, 8; Subrogation Plaintiffs Memorandum, 3-5, 8-10; Harvell Opposition, 3.

<sup>14</sup> PG&E Memorandum, 9-10, 14-15; Koven Memorandum, 8; Schulz Declaration in Support of Koven Memorandum ¶¶ 19-21; Atlas Fire Plaintiffs Response, 6-8.

that at least one of its 5 proceedings *include multiple fires*. So we do not know if adopting PG&E's five part division will or will not help keep these detailed factual inquires distinct, or to what extent.<sup>15</sup> Nor do we know, at this stage, if a fire such as the Atlas Fire had one or more ignition sources.

There are of course a series of other individual issues, no matter how we slice up the cases: each plaintiff has unique damages, for example. Such factors do not favor one, three, or five coordinated proceedings.

(3) *Predominance of common factors.* We can predict common discovery and motion practice across all of the fires relating to PG&E's policies and practices, and common legal issues relating to inverse condemnation and other matters. So there are benefits that can only be achieved through a single coordinated proceeding. A single judge can oversee a single discovery plan applicable to all of the fires, including depositions, admissions, and documents, and ensure for example relevant items are deemed produced as to all pertinent cases. The single judge can create multiple tracks—perhaps 5, if PG&E is right—to accommodate the track-specific discovery that needs to be done, involving only the parties and counsel interested in those facts.

The present matters are reminiscent of the *Ford Motor Warranty Cases*. There, the “Lemon Law” cases involved a common transmission system installed in two different models of cars over several model years by a single manufacturer. *Ford Motor Warranty Cases*, 11 Cal.App.5th 626, 629 (2017). There were common discovery issues regarding e.g., the design and modification of the transmission at issue, in addition to individualized facts that required review at trial. 11 Cal.App.5th at 641-43. Here, each of the fires shares, at least at the pleading stage, a common core allegation: PG&E’s alleged lax maintenance and failure to prepare for a

---

<sup>15</sup> Nor by the same token do we know if, following other parties’ suggestions, we sliced off the Atlas or the Tubbs fire, we would nevertheless have multiple ignition sources for each of those fires.

foreseeable weather event. As in the *Ford Motor Warranty Cases*, the fact that some individual issues must be resolved in each case, or separately as to specific fires, does not undercut the benefits of coordination.

Coordinating the claims into distinct proceedings based on the fire at issue will likely cause unnecessary procedural delays. Complaints may allege damages resulting from multiple fires in multiple counties or may simply be vague as to which fire caused damage.<sup>16</sup> Sorting each complaint, including ruling on anticipated motions to sever, into separate coordinated proceedings would result in unnecessary delay throughout the proceedings.

A final word on the delays feared by plaintiffs, such as those urging me to segregate the Atlas Fire cases for Napa county. This is a serious concern. Coordination can be clumsy, and there is always a risk that delays in one part of a coordinated litigation ramify across the cases. But the powers of the coordination trial judge are substantial, and include the ability to expedite a case or group of cases. *McGhan Med. Corp. v. Superior Court*, 11 Cal. App. 4th 804, 812 (1992).

Even were the Atlas Fire cases sent, for example, to Napa, it is likely that the Napa judge would then be required to coordinate common discovery (such as that against PG&E) with the other judges handling the other cases, indeed to the extent of avoiding, if possible, conflicting orders on discoverability, burden, proper topics for PMK depositions, and so on. All of which is to say that while the efficiency of one case may not be efficient for all, factors which may delay coordinated cases cannot be avoided by peeling off one set of cases to e.g., Napa County.

B. *Convenience of Parties, Witnesses, and Counsel.* The distances between the various counties involved is not so severe as to suggest this is a significant factor. San Francisco

---

<sup>16</sup> See Pitre Declaration in Support of Hay Petition, Ex. A at ¶¶ 1, 7, Ex. B at ¶¶ 1, 7, Ex. C at ¶¶ 1-2, 10-14; Ex. D at ¶¶ 1, 7; Ex. E at ¶¶ 1-2.

with its nearby international airport is somewhat more convenient than the counties to the north, but all are within reasonable driving distance, and the availability of Court Call further reduces the inconvenience for parties and lawyers residing in the North Bay. San Francisco is surely the most convenient location for PG&E, and plaintiffs' counsel representing the vast bulk of current plaintiffs also favor San Francisco, including for its convenience. The e-filing procedures in San Francisco, and the widespread availability of all e-filed documents, favors San Francisco above the rest of the nominated counties.

C. *Relative Development of the Actions and the Work Product of Counsel.* The cases have all just been filed. This factor weighs in favor of coordination generally, but has no weight in determining whether to include all of the subject actions in a single coordinated proceeding or in several separate coordinated proceedings.

D. *Efficient Utilization of Judicial Facilities and Manpower and the Calendar of the Courts.* A single coordinated proceeding will ensure one judge is apprised of the status of the litigation as a whole. Other courts may well become involved, because even with proceedings coordinated in San Francisco, the coordination judge "is vested with 'whatever great breadth of discretion may be necessary and appropriate to ease the transition through the judicial system of the logjam of cases which gives rise to coordination.'" *Ford Motor Warranty Cases*, 11 Cal.App.5th at 645. So trials need not be held in one place. *Id.* at 644.<sup>17</sup> And a single forum avoids the specter of e.g., five judges coordinating not only all the cases before each of them but also with the other judges.

---

<sup>17</sup> Even where the coordinated cases may not be tried in one forum, "coordination will enable the parties to consider stipulations of facts that need not be proven and other procedures to expedite the presentation of evidence, to obtain rulings on motions in limine, and to develop jury questionnaires, jury instructions, special verdicts, and interrogatories that may be used in future trials." *Ford Motor Warranty Cases*, 11 Cal.App.5th at 644.

**E. Disadvantages of Duplicative and Inconsistent Rulings, Orders, or Judgments.**

This factor favors a single proceeding. There is a risk that inconsistent rulings and orders pertaining to general issues will result from splitting these actions into separate proceedings. Also, the five proceedings recommended by PG&E could implicate two separate appellate districts (although this could be avoided by my designation of a single appellate court).

**F. Likelihood of Settlement Without Further Litigation Should Coordination be Denied.** This factor suggests coordination, but not whether there should be one or more proceedings. As the facts develop, the parties may seek one settlement or settlement of some portion of the cases. This is true regardless of whether the cases are in one or (for example) five locations.

**Proper Superior Court For Coordination Proceedings**

San Francisco County is best equipped to handle a single coordinated proceeding. With one exception,<sup>18</sup> no party has proposed a single coordinated proceeding in another venue. This venue is most appropriate because: (1) Most of the cases at issue were filed in San Francisco County; (2) San Francisco County supports e-filing, whereas the other counties in which cases have been filed do not, or at least not to the same extent; (3) San Francisco County has a designated complex litigation department, whereas the other counties in which cases have been filed do not; and (4) San Francisco County is the most accessible option to individuals traveling from Southern California and out-of-state, and is not far removed from the North Bay counties.

**Proper Court to Exercise Appellate Jurisdiction Over Coordination Proceedings**

The First District Court of Appeal is most appropriate. San Francisco County is included within the First District. The only other counties where cases have been filed, Sonoma and Napa, are also within the First District.

---

<sup>18</sup> See above note 4.

### **Stay**

PG&E requests a stay pending coordination. PG&E Memorandum, 18-19. C.C.P. § 404.5. Plaintiff Valerie Evans opposes the request, arguing that she has served narrow time-sensitive discovery. Evans Response, 1-2. At argument I stated my tentative view that a stay was appropriate, and no party argued to the contrary.

The request is granted. A limited (and not general) stay is imposed: discovery, motion practice, and the obligations to respond to complaints and cross complaints are stayed pending further order of the coordination trial judge.

### **Conclusion**

The petitions to coordinate are granted to the extent they seek coordination of the cases in a single county, and are otherwise denied.

I recommend the Superior Court of California, County of San Francisco, be the site for the coordinated proceedings and I designate the Court of Appeal, First District, as the reviewing court.

The included cases are subject to the limited stay as described above.

Petitioner PG&E is directed to serve a copy of this order on (1) all parties to the included coordinated actions, and (2) the clerk of each court for filing in each included action, and otherwise as required. CRC 3.529.

DATED: January 4, 2018



Curtis E.A. Karnow  
Judge Of The Superior Court  
Coordination Motion Judge

## Appendix A

### *Plain English Summary<sup>19</sup>*

As a result of the so-called "North Bay Fires" many hundreds of lawsuits have been filed against PG&E, which is accused of being legally responsible for the damage caused by those fires. Many more cases will probably be filed. Most of the cases were filed in San Francisco, because that's where PG&E has its offices. But other people brought cases in other counties such as Napa and Sonoma.

Under California law, people involved in related cases can ask a court to assign all the cases to one judge. This is termed coordination. Coordinated cases usually go through pretrial procedures together, but they may or may not go to trial together. Even if cases are coordinated in one county, individual cases could go to trial in other counties, such as the county where they were originally filed.

Some of the people who brought these cases want them handled closer to where they live, such as Napa, Sonoma, and other counties. PG&E thinks it's best to divide up all the cases and send them out to 5 different counties, centered on where the various fires started. Others involved in these cases want all the cases coordinated in one county, San Francisco.

This order recommends that the pretrial procedures for all the cases be in San Francisco, because that's the most convenient place for almost everyone, and because there are a series of fact and legal issues which are common to all the cases, which can therefore be handled once, as opposed to many—possibly conflicting—ways across the various counties.

After this order is filed, the Chair of the Judicial Council, who is the Chief Justice of California, will decide whether to accept or reject the recommendation on coordination.

---

<sup>19</sup> This is for the convenience of the lay reader and is not the court's analysis or decision.

## Appendix B

Included Actions per November 13, 2017 Order by the Chair of the Judicial Council

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of San Francisco	CGC-17- 561937	Harvell et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17- 562172	Berry et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562175	Daniels et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562173	Green et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562192	Krause et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-561997	O'Neal et al. v. PG&E Corporation et al.
Superior Court of California County of Sonoma	SCV-261436	Heidingsfelder et al. v. PG&E Corporation et al.

Additional Included Actions per November 27, 2017 Order by the Chair of the Judicial Council

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of Napa	17CV001224	Evans v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-561983	Schrock v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562246	Tandrup et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562251	Ruiz et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562320	Omlin et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261490	Hill v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261484	Thomas et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261489	Burton v. Pacific Gas & Electric Company et al.

Actions included in PG&E Defendants' Notices of Potential Add-On Cases dated December 5 and December 15 2017

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of San Francisco	CGC-17-562380	Hollinger et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261513	Hollenbeck et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562456	Hay et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562457	Jordan et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562458	Wilson et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562460	Silvas et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Napa	17CV001284	Animo L.P. v. PG&E Corporation et al.
Superior Court of California County of Napa	17CV001292	Amador et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261534	Meyer et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261535	Wilson et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261536	Callagy et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261542	Davenport et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562536	Chaddha et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Napa	17CV001293	Langner et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562366	Winkle v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562537	Beugelmans et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562647	Butler v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562648	Perliss Estate Vineyards LLC v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562660	Belon et al. v. Pacific Gas & Electric Company et al.

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of San Francisco	CGC-17-562661	Bowman et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562664	Olson v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562665	Tran v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562666	Udell v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562667	Wood v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562668	Bubel v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562729	Godfrey v. PG&E Corporation et al.
Superior Court of California County of Sonoma	SCV-261556	Koven et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261558	Clausen et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261564	Carucci et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261581	Turner v. PG&E Corporation et al.
Superior Court of California County of Sonoma	SCV-261587	Reynoso et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261591	Waldon v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562753	Preimesberger et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562755	Reynoso et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562791	Olds et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562809	Robertson et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-562815	Goldberg v. PG&E Corporation et al.
Superior Court of California County of Sonoma	SCV-261599	Andrews et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261602	Appleton et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of Sonoma	SCV-261618	Bevier et al. v. Pacific Gas & Electric Company et al.

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of San Francisco	CGC-17-562953	Simmons et al. v. PG&E Corporation et al.

Additional Actions Identified in Coordination Petitions or Responses Filed between December 12, 2017 and December 29, 2017

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of Napa	17CV001397	Hagafen Cellars Inc. et al. v. PG&E Corporation et al.
Superior Court of California County of Napa	17CV001398	Ashworth et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-562990	Bostan v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563006	Rasouli et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563008	Amaya et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563183	United Services Automobile Association et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-563184	State Farm General Insurance Company et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-563185	California Fair Plan Association et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-563286	Alves et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563288	Hancock et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563290	Andrew et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563292	Pardini et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563293	Benham et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563295	Glabicki et al. v. PG&E Corporation et al.

Additional Potential Add-On Actions

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of San Francisco	CGC-17-563134	Holstine v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563135	Burwell v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563136	Atlas Peak Mountain Winery LLC v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563137	Donzelli v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563138	Jepsen v. PG&E Corporation et al.
Superior Court of California County of Sonoma	SCV-261692	Bricker et al. v. Pacific Gas & Electric Company et al.
Superior Court of California County of San Francisco	CGC-17-563273	Merjil et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563276	Hancock et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563279	Pardini et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563315	Gilbert v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563316	Kinney v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563317	Cisneros v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563318	Giannini v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563320	Bellenger v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563322	Malone et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563327	Adkins et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563328	Friedland v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563329	Perez v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563330	Hogan v. PG&E Corporation et al.

<u>COURT</u>	<u>NUMBER</u>	<u>SHORT TITLE</u>
Superior Court of California County of Sonoma	SCV-261723	Ger Hospitality LLC v. PG&E Corporation et al.
Superior Court of California County of Napa	17CV001454	Patland et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563387	Anderson v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563363	McNeive et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563389	Wasem et al. v. PG&E Corporation et al.
Superior Court of California County of Sonoma	SCV-261698	Poundstone et al. v. PG&E Corporation et al.
Superior Court of California County of Sonoma	SCV-261701	Gaytan et al. v. PG&E Corporation et al.
Superior Court of California County of San Francisco	CGC-17-563407	Ortiz et al. v. Pacific Gas & Electric Company et al.

# EXHIBIT 2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

FILE  
San Francisco County Super



MAR 6 - 2018

CLERK OF THE COURT  
*[Signature]*  
BY: *[Signature]* Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

COORDINATION PROCEEDING  
SPECIAL TITLE [RULE 3.550]

*California North Bay Fire Cases*

Judicial Council Coordination  
Proceeding No.: 4955

CASE MANAGEMENT ORDER NO. 1

I conducted a case management conference (CMC) February 27, 2018.<sup>1</sup>

There are five groups in this litigation: 1) Individual Plaintiffs, which include cases brought on behalf of persons and business entities; 2) Public Entity Plaintiffs; 3) Class Action Plaintiffs (together with the Individual Plaintiffs and the Public Entity Plaintiffs the "Direct Action Plaintiffs"); 4) Subrogation Plaintiffs; and 5) Defendants.

#### ORGANIZATION OF PLAINTIFFS' COUNSEL

##### A. Individual Plaintiffs

###### 1. Lead Counsel for Individual Plaintiffs

The Court appoints the following lawyers as Individual Plaintiffs' Lead Counsel for those cases:

Michael A. Kelly  
Walkup, Melodia, Kelly & Schoenberger  
650 California Street, 26th Floor  
San Francisco, CA 94108  
Tel: (415) 981-7210

<sup>1</sup> The Department's User Manual may be found at <<http://sfsuperiorcourt.org/divisions/civil/litigation>>

1                   [mkelly@walkuplawoffice.com](mailto:mkelly@walkuplawoffice.com)

2                   Frank Pitre  
3                   Cotchett, Pitre & McCarthy, LLP  
4                   840 Malcolm Road, Suite 200  
5                   Burlingame, CA 94010  
6                   Tel: (650) 697-6000  
7                   [fpitre@cpmlegal.com](mailto:fpitre@cpmlegal.com)

8                   Bill Robins, III  
9                   Robins Cloud LLP  
10                  808 Wilshire Boulevard, Suite 450  
11                  Santa Monica, CA 90401  
12                  Tel.: (310) 929-4200  
13                  [robins@robinscloud.com](mailto:robins@robinscloud.com)

14                  Lead Counsel for Individual Plaintiffs shall be members of, as well as authorize and  
15                  direct the work of the Plaintiffs' Executive Committee and Individual Plaintiffs' Steering  
16                  Committee for cases involving Individual Plaintiffs. Individual Plaintiffs' Lead Counsel shall  
17                  also be responsible for coordinating the activities of the Direct Action Plaintiffs during pretrial  
18                  proceedings, and in consultation and with the assistance of the Plaintiffs' Executive Committee,  
19                  shall:

20                  a.         Appear before the Court and present the position of Individual Plaintiffs at  
21                  all Case Management Conferences, Status Conferences, or other court  
22                  ordered hearings;

23                  b.         Direct and coordinate the briefing and argument of all motions directed at  
24                  or brought by Direct Action Plaintiffs generally;

25                  c.         Direct and coordinate the filing of opposing briefs and argue motions in  
26                  proceedings initiated by other parties against Direct Action Plaintiffs'  
27                  interests (except as to matters directed to specific individual plaintiffs and  
                        their counsel or a specific Plaintiff group);

                        d.         Initiate and coordinate all discovery proceedings on behalf of Direct  
                        Action Plaintiffs, including propounded general liability written discovery,

document production discovery and the taking of oral depositions;<sup>2</sup>

- e. Manage the selection of all cases for trial setting;
- f. Coordinate the initiation of, and conduct discovery on behalf of Direct Action Plaintiffs consistent with the requirements of the California Code of Civil Procedure and Rules of Court or any order of this Court;
- g. Assign work for the investigation and discovery of common liability and damages matters for all Direct Action Plaintiffs' counsel, and delegate specific tasks to other Direct Action Plaintiffs' counsel, in a manner to ensure that pretrial preparation for Individual Plaintiffs is conducted effectively, efficiently and economically;
- h. Enter into stipulations, on behalf of Direct Action Plaintiffs, with opposing counsel as necessary for the conduct of the litigation;
- i. Prepare and distribute to other Individual Plaintiffs' counsel periodic status reports;
- j. Perform such other duties as may be necessary to the representation of Individual Plaintiffs, proper coordination of Individual Plaintiffs' activities or authorized by order of the Court; and
- k. Submit, if appropriate, additional Individual Plaintiffs' committees and counsel for designation by the Court.

## **2. Individual Plaintiffs' Liaison Counsel**

The Court appoints the following lawyers as Individual Plaintiffs' Liaison Counsel:

**Khaldoun A. Baghdadi**  
**Walkup, Melodia, Kelly & Schoenberger**  
**650 California Street, 26th Floor**  
**San Francisco, CA 94108**  
**Tel: (415) 981-7210**  
**[kbaghdadi@walkuplawoffice.com](mailto:kbaghdadi@walkuplawoffice.com)**

<sup>2</sup> Discovery initiated by Defendants directed to specific individual plaintiffs shall be handled by the attorney for those specific individuals.

1  
2           Amy Eskin  
3           Levin Simes LLP  
4           44 Montgomery Street, Floor 32  
5           San Francisco, CA 94104  
6           Tel: (415) 426-3000  
7           [aeskin@levinsimes.com](mailto:aeskin@levinsimes.com)

8  
9  
10          Steven J. Skikos  
11          Skikos, Crawford, Skikos & Joseph, LLP  
12          One Sansome Street, Suite 2830  
13          San Francisco, CA 94104  
14          Tel: (415) 546-7300  
15          [sskikos@skikos.com](mailto:sskikos@skikos.com)

16          Liaison Counsel shall be members of the Plaintiffs' Executive Committee and have the  
17          following responsibilities:

- 18           a. Upon the designation of Individual Plaintiffs' Lead Counsel, appear before  
19           the Court and present the position of Individual Plaintiffs at all Case  
20           Management Conferences, Status Conferences, or other court ordered  
21           hearings;
- 22           b. To make available to the Court, to counsel for Individual Plaintiffs, and to  
23           counsel for Defendants an up-to-date comprehensive Service List of all  
24           Individual Plaintiffs' counsel (including the date of the most recent  
25           revision);
- 26           c. To receive and distribute to Individual Plaintiffs' counsel as appropriate,  
27           orders, notices and correspondence from the Court;
- 28           d. To maintain and make available to other Individual Plaintiffs, on  
29           reasonable notice and at reasonable times, a complete set of all filed  
30           pleadings and orders filed and/or served in these coordinated proceedings;  
31           and
- 32           e. To coordinate the filing of notices and papers by any Individual Plaintiff,  
33           including the designation of responsibilities to encourage the filing of a

1                   single set of papers by the Individual Plaintiffs in situations where the  
2                   Individual Plaintiffs have a common position.  
3

4                   **3. Individual Plaintiffs' Executive Committee**  
5

6                   The Court appoints the lawyers and firms identified in Addendum A to the Individual  
7                   Plaintiffs' Executive Committee. Individual Plaintiffs' Executive Committee shall have the  
8                   following responsibilities with respect to matters of common concern to all Individual Plaintiffs:

- 9                   a. Coordination of Individual Plaintiffs' pretrial activities and work  
10                  performed by the Individual Plaintiffs' lead counsel and liaison counsel;
- 11                  b. Calling meetings of Individual Plaintiffs' counsel when appropriate and to  
12                  consult with Individual Plaintiffs' counsel on matters of common concern;
- 13                  c. Designating additional Individual Plaintiffs' subcommittees to perform  
14                  services on behalf of Individual Plaintiffs and designate additional  
15                  Individual Plaintiffs' counsel to serve on such subcommittees; and
- 16                  d. When appropriate, chairing and organizing Individual Plaintiffs' sub-  
17                  committees as necessary to address specific issues of concern to claims of  
18                  Individual Plaintiffs, Subrogation Plaintiffs, Government Plaintiffs and  
19                  Class Plaintiffs.

21                   **4. Individual Plaintiffs' Steering Committee**  
22

23                   The Court appoints the lawyers and firms identified in Addendum B to the Individual  
24                   Plaintiffs' Steering Committee. The Individual Plaintiffs' Steering Committee shall have the  
25                   following responsibilities with respect to matters of common concern to all Individual Plaintiffs:

- 26                  a. To meet, strategize, and provide guidance to Individual Plaintiffs' Lead  
27                  Counsel, Liaison Counsel, and Executive Committee with respect to the

direction of Individual Plaintiffs' pretrial activities and overall litigation strategy;

- b. To provide recommendations concerning the execution of Individual Plaintiffs' pretrial activities and work performed by the Individual Plaintiffs' lead counsel and liaison counsel, including the drafting of motions and opposing briefs and taking of depositions;
- c. To call meetings of Individual Plaintiffs' counsel when appropriate and to consult with Individual Plaintiffs' counsel on matters of common concern; and
- d. Serve on additional Individual Plaintiffs' subcommittees to perform services on behalf of Individual Plaintiffs and designate additional Individual Plaintiffs' counsel to serve on such subcommittees.

## **B. Public Entity Plaintiffs**

The Court appoints the following lawyer as Lead Counsel:

**Scott Summy  
Baron & Budd, P.C.  
3102 Oak Lawn Ave #1100  
Dallas, TX 75219  
Tel: (214) 521-3605  
[ssummy@baronbudd.com](mailto:ssummy@baronbudd.com)**

Public Entities' Lead Counsel shall be responsible for responding to discovery, briefing, and argument of issues that are specific to the Public Entity cases. Public Entities' Lead Counsel shall maintain a current listing of all filed Public Entity cases and identify same for the Executive Plaintiffs Committee, Defendants and the Court. Counsel in any Public Entity cases shall cooperate with the Lead Counsel for Individual Plaintiffs, Public Entities' Lead Counsel and the Court in the production of information necessary to prepare for any status conference or in the scheduling of any discovery, or hearing.

1           **C. Class Action Plaintiffs**

2           The Class Action committee will be formed and the Committee Chairs are identified  
3 below:

4           Elizabeth Cabraser  
5           Lexi Hazam  
6           Lieff Cabraser Heimann & Bernstein, LLP  
7           275 Battery Street, 29th Floor  
8           San Francisco, CA 94111-3339  
9           Tel: (415) 956-1000  
10           ecabraser@lchb.com  
11           lhazam@lchb.com

12           The Committee shall be responsible for the prosecution and management of the class  
13 actions, including discovery, briefing, and argument of issues that are specific to the class cases.  
14           The Committee shall maintain a current listing of all filed class action cases and identify same  
15 for Lead Counsel for Individual Plaintiffs, Defendants and the Court. Counsel in any Class  
16 Action case shall cooperate with the Committee, Lead Counsel for Individual Plaintiffs and the  
17 Court in the production of information necessary to prepare for any status conference or in the  
18 scheduling of any discovery, or hearing. The Committee should evaluate consolidated  
19 complaints and certification hearings, and report in the next CMC statement its views on the  
timing of these. While there is no stay of class related discovery, the Committee expects that the  
liability discovery described below will be used for certification briefing.

20           **D. Subrogation Plaintiffs**

21           The Court appoints the following lawyers as Lead Counsel and Liaison Counsel for the  
22 Subrogation Plaintiffs and the Executive Committee for Subrogation Plaintiffs. They have the  
23 same duties/responsibilities within/to the Subrogation Plaintiffs group as the lawyers serving as  
24 Lead Counsel and Liaison Counsel and the Executive Committee for the Individual Plaintiffs:  
25

1           **1. Lead Counsel for Subrogation Plaintiffs<sup>3</sup>**

2           Shawn Caine  
3           The Law Offices of Shawn E. Caine  
4           1221 Camino Del Mar  
5           Del Mar, CA 92014  
6           Tel: (619) 838-1365  
7           scaine@cainelaw.com

8           Mark Grotefeld  
9           Grotefeld Hoffmann  
10          Shepard Mountain Plaza  
11          6034 West Courtyard Drive, Suite 200  
12          Austin, TX 78730  
13          Tel: (737) 226-5310  
14          mgrotefeld@ghlaw-llp.com

15          Howard Maycon  
16          Cozen O'Connor  
17          601 S. Figueroa Street, Suite 3700  
18          Los Angeles, CA 90017  
19          Tel: (213) 892-7900  
20          hmaycon@cozen.com

21          Maura Walsh Ochoa  
22          Grotefeld Hoffmann  
23          700 Larkspur Landing Circle, Suite 280  
24          Larkspur, California 94939  
25          Tel: (415) 344-9670  
26          mochoa@ghlaw-llp.com

27          Craig Simon  
28          Berger Kahn, A Law Corporation  
29          1 Park Plaza, Suite 340  
30          Irvine, CA 92614  
31          Tel: (949) 748-4444  
32          csimon@bergerkahn.com

33          Lead Counsel for Subrogation Plaintiffs shall be responsible for discovery, briefing, and  
34          argument of issues that are specific to the Subrogation cases. Lead Counsel for the Subrogation  
35          Plaintiffs shall maintain a current listing of all filed Subrogation cases and identify same for  
36          Lead Counsel for Individual Plaintiffs, Defendants and the Court. Counsel in any Subrogation  
37          cases shall cooperate with Lead Counsel for the Subrogation Plaintiffs, Subrogation Plaintiffs'  
38          Executive Committee and the Court in the production of information necessary to prepare for

39          <sup>3</sup> The rights and obligations of Lead Counsel for Subrogation Plaintiffs mirror the rights and obligations of Lead  
40          Counsel for Individual Plaintiffs.

1 any status conference or in the scheduling of any discovery, or hearing.  
2

3           **2. Liaison Counsel for Subrogation Plaintiffs**

4  
5           Alan Jang  
6           Jang & Associates  
7           1766 Lacassie Avenue, Suite 200  
8           Walnut Creek, CA 94596  
9           Tel: (925) 937-1400  
10          [ajang@janglit.com](mailto:ajang@janglit.com)

11  
12          Scott Loewe  
13          Bauman Loewe Witt & Maxwell, PLLC  
14          8765 East Bell Road, Suite 210  
15          Scottsdale, Arizona 85260  
16          Tel: (480) 502-4664  
17          [sloewe@blwmlawfirm.com](mailto:sloewe@blwmlawfirm.com)

18  
19          Waylon Pickett  
20          Grotefeld Hoffmann  
21          0324 SW Abernethy Street  
22          Portland, Oregon 97239  
23          Tel: (503) 384-2772  
24          [wpickett@ghlaw-llp.com](mailto:wpickett@ghlaw-llp.com)

25           **3. Subrogation Plaintiffs' Executive Committee**

26  
27          Mark Bauman  
28          Bauman Loewe Witt & Maxwell, PLLC  
29          8765 East Bell Road, Suite 210  
30          Scottsdale, Arizona 85260  
31          Tel: (480) 502-4664  
32          [mbauman@blwmlawfirm.com](mailto:mbauman@blwmlawfirm.com)

33  
34          Kevin Bush  
35          Cozen O'Connor  
36          601 S. Figueroa Street, Suite 3700  
37          Los Angeles, CA 90017  
38          Tel: (213) 892-7900  
39          [kbush@cozen.com](mailto:kbush@cozen.com)

40  
41          Tim Cary  
42          Stutman Law  
43          1260 Corona Pointe Ct., Suite 306  
44          Corona, CA 92879  
45          Tel: (951) 963-1298  
46          [caryt@stutmanlaw.com](mailto:caryt@stutmanlaw.com)

47  
48          Eric Schroeder  
49          Schroeder Loscotoff

1                   7410 Greenhaven Dr., Ste. 200  
2                   Sacramento, CA 95831  
3                   Tel: (916) 438-8306  
4                   cmschroeder@calsubro.com

5                  **II. DEFENDANTS' COUNSEL**

6                  Defendants are represented by Cravath, Swaine & Moore LLP, Wilson Sonsini Goodrich  
7                  & Rosati and Clarence Dyer & Cohen LLP.

8                  Evan R. Chesler,  
9                  Timothy G. Cameron  
10                 Kevin J. Orsini  
11                 Damaris Hernandez  
12                 Cravath, Swaine & Moore LLP  
13                 Worldwide Plaza  
14                 825 8th Avenue  
15                 New York, New York 10019  
16                 Tel: (212) 474-1000  
17                 echesler@cravath.com  
18                 tcameron@cravath.com  
19                 korsini@cravath.com  
20                 dherandez@cravath.com

21                 Keith E. Eggleton  
22                 John P. Flynn  
23                 Rodney G. Strickland  
24                 Colleen Bal  
25                 Wilson Sonsini Goodrich & Rosati  
26                 650 Page Mill Road  
27                 Palo Alto, California 94304, and  
1                 One Market Plaza, Suite 3300  
2                 San Francisco, CA 94105  
3                 Tel: (650) 493-9300  
4                 Tel: (415) 947-2000  
5                 keggleton@wsgr.com  
6                 jflynn@wsgr.com  
7                 rstrickland@wsgr.com  
8                 cbal@wsgr.com

9                 Kate Dyer  
10                Clarence Dyer & Cohen LLP  
11                899 Ellis Street  
12                San Francisco, California 94109  
13                Tel: (415) 749-1800  
14                kdyer@clarencedyer.com

1           **JURISDICTION AND WAIVER OF SERVICE OF PROCESS**

2           The parties agree that this court has jurisdiction over the parties and that there are no  
3 challenges to personal or subject matter jurisdiction. The parties have met and conferred and  
4 Defendants have agreed to waive service of process in cases filed in JCCP No. 4955 in which  
5 they are named. For such cases, Plaintiffs shall send the Notice of Adoption of Short Form  
6 Complaint and Short Form Complaint by email to the following individuals, Kevin J. Orsini  
7 ([korsini@cravath.com](mailto:korsini@cravath.com)), Brittany L. Sukiennik, ([bsukennik@cravath.com](mailto:bsukennik@cravath.com)), Keith E. Eggleton  
8 ([keggleton@wsgr.com](mailto:keggleton@wsgr.com)), and Rodney Strickland ([rstrickland@wsgr.com](mailto:rstrickland@wsgr.com)) or by U.S. Mail to:

9           Kevin J. Orsini  
10          Brittany L. Sukiennik  
11          Cravath, Swaine & Moore LLP  
12          Worldwide Plaza  
13          825 8th Avenue  
14          New York, New York 10019-7475

15          Keith E. Eggleton  
16          Rodney G. Strickland  
17          Wilson Sonsini Goodrich & Rosati, EC  
18          650 Page Mill Road  
19          Palo Alto, California 94304

20          The parties agree that complying with these provisions shall constitute personal service of  
21 process under the California Code of Civil Procedure.

22           **A. Master Pleadings**

23          The parties agree that a Master Complaint for Individual Plaintiffs, a Master Complaint  
24 for Subrogation Plaintiffs and a Master Complaint for the Public Entity Plaintiffs shall be lodged  
25 with the Court. Corresponding Master Answers for Defendants in response to each of the three  
26 Master Complaints shall govern the pleadings for those actions.<sup>4</sup> Drafts of the applicable Master  
27 Complaints for the Individual Plaintiffs, Public Entity Plaintiffs and Subrogation Plaintiffs are  
being exchanged and will be presented to the Court.

<sup>4</sup> Subsections B, C and D do not apply to the Class Action Plaintiffs.

1           **B. Challenges to Master Pleadings**

2           The parties anticipate a single challenge to the Master Complaints concerning the  
3 applicability of inverse condemnation to a private utility.

4           Defendants will file that challenge on March 16, 2018. The Individual Plaintiffs' Lead  
5 Counsel (on behalf of the Direct Action Plaintiffs) and the Subrogation Plaintiffs' Lead Counsel  
6 shall each file their opposition no later than April 16, 2018. Defendants will file a single reply to  
7 both oppositions, which shall not exceed 20 pages, by April 30, 2018. The hearing is set for **May  
8 18, 2018 at 9:00 a.m.**

9           **C. Notice of Adoption of Master Complaint and Master Answer**

10          The parties will meet and confer regarding the Notice of Adoption of Master Complaint,  
11 and Notice of Potential Add-On Cases and Request for Coordination. Plaintiffs will provide  
12 Defendants the applicable documents for review and submission to the Court. The Master  
13 Complaints shall be filed no later than March 12, 2018. The Master Answers shall be filed no  
14 later than March 16, 2018. The Master Complaints and the Master Answers will not be verified.

15          **1. Notice of Adoption of Master Complaint**

16          Each Direct Action Plaintiff or Subrogation Plaintiff with a case already on file in JCCP  
17 No. 4955 shall serve on their respective Lead Counsel a Notice of Adoption of Master Complaint  
18 within 30 days of the date the Master Complaint is filed. The Notice of Adoption shall contain  
19 the following information: 1) the name and address of each plaintiff; 2) the fire(s) by which each  
20 plaintiff was allegedly harmed;<sup>5</sup> 3) the causes of action each plaintiff is joining and against  
21 which defendant(s) they are pled; and 4) the categories of damages allegedly incurred by each  
22 plaintiff and for which that plaintiff is seeking recovery and from which defendant(s).

23          For existing Individual Plaintiffs, the filing of a Notice of Adoption of Master Complaint

24  
25  
26  
27         <sup>5</sup> Counsel are to agree on a naming convention for the fires.

1 shall not require the payment of an additional filing fee or a new case number. Each Notice of  
2 Adoption shall constitute an amended complaint for all purposes. Upon filing the Notice of  
3 Adoption, the Master Complaint, as amended by the Plaintiff's Notice of Adoption, shall be the  
4 operative pleading. The date on which the Master Complaint is filed shall have no bearing on  
5 whether any Plaintiff has satisfied the applicable statute of limitations. Rather, the date on which  
6 an individual Plaintiff's properly filed original complaint initiating his or her action was filed  
7 shall be the operative date for statute of limitations purposes.  
8

9 For cases naming more than one Plaintiff, except those naming a derivative Plaintiff (e.g.,  
10 an heir asserting a wrongful death claim) each Plaintiff must file an individual Notice of  
11 Adoption.<sup>6</sup>

12           **2.       Notice of Adoption of Master Answer**

14           The Defendants' Notice of Adoption of Master Answer must be filed within 30 days of  
15 the filing of Plaintiffs' Notice of Adoption of Master Complaint. All responses pled in PG&E's  
16 Master Answer will be deemed pled in any previously filed Complaint and Responsive Pleading  
17 now pending in this JCCP proceeding, and in any Notice of Adoption filed thereafter.

19           **3.       Cases to Be Filed**

21           Plaintiffs who have not yet filed an action will initiate an action by Filing a Short Form  
22 Complaint and Notice of Adoption of Master Complaint, in a proper venue in California. As  
23 indicated above, the Notice of Adoption shall contain the following information: 1) the name and  
24 address of each plaintiff; 2) the fire(s) by which each plaintiff was allegedly harmed; 3) the  
25 causes of action each plaintiff is joining and against which defendant(s) they are pled; and 4) the  
26 categories of damages allegedly incurred by each plaintiff and for which that plaintiff is seeking  
27 recovery and from which defendant(s).

<sup>6</sup> Members of a single household need only file one notice of adoption.

1       Upon that filing, the Master Complaint, as Amended by the Notice of Adoption, shall be  
2 the operative pleading. The date on which the Master Complaint is filed shall have no bearing on  
3 whether any Plaintiff has satisfied any applicable statute of limitations. Rather, the later date on  
4 which an individual Plaintiff properly filed the Short Form Complaint or Notice of Adoption  
5 initiating his or her action shall be the operative date for statute of limitations purposes. For any  
6 future case filed, the Plaintiff must include a civil cover sheet identifying this JCCP (California  
7 North Bay Fire Cases, JCCP No. 4955).

9                      **D. Adding Cases into These Coordinated Proceedings**

10          Add-on cases may be handled by stipulation of all parties or by petition of Defendants  
11 consistent with the procedures and requirements of CRC 3.531 and C.C.P. § 404.4.

13                      **E. Cross-Complaints**

15          The parties agree that Defendants may or may not file cross-complaints as they choose.

16          However, if a cross-complaint is not filed at the time Defendants file the Master Answers,  
17 but instead is filed by an existing Defendant at a later date, by whatever means or procedure,  
18 such later filing will not, absent good cause or as otherwise provided by the Code of Civil  
19 Procedure, constitute cause for delay of any then-existing trial date or trial.

21                      **Discovery Phases**

23          The parties have agreed to stage discovery. Stage One relates to: 1) liability discovery;  
24 and 2) damages discovery from Individual Plaintiffs, Public Entity Plaintiffs and Subrogation  
25 Plaintiffs. Stage Two relates to expert discovery on issues of both liability and damages and will  
26 be subject to further order of this Court.

1                   **Stage One: Liability Discovery**

2                   **1. By Direct Action and Subrogation Plaintiffs.**

3                   Liability discovery shall be conducted as directed by Lead Counsel for the Individual  
4 Plaintiffs and Lead Counsel for Subrogation Plaintiffs. Lead Counsel for Individual Plaintiffs  
5 have informed counsel for PG&E regarding the initial round of liability discovery that includes:  
6 a set of initial Requests for Admission to elicit whether PG&E is contesting causation on the  
7 origin of each of the North Bay Fires; a Deposition notice for the person most qualified at PG&E  
8 on the general topics of how the company stores, accesses, exchanges and retrieves data on  
9 vegetation management and electrical infrastructure; and a request for inspection and/or  
10 production of photographs or recordings of any item of physical evidence related to PG&E  
11 equipment or vegetation inspected as a potential cause of a fire included in these proceedings.  
12 Direct Action Plaintiffs and Subrogation Plaintiffs may seek liability discovery concerning the  
13 origin and cause of each of the North Bay Fires; such as vegetation management, electrical  
14 infrastructure and wildfire risk management.

15                  Prior to serving Defendants with liability discovery, Direct Action Plaintiffs and  
16 Subrogation Plaintiffs have agreed to cooperate in good faith to coordinate such discovery.  
17 Either the Individual Plaintiffs' Lead Counsel (on behalf of Direct Action Plaintiffs) or the  
18 Subrogation Plaintiffs' Lead Counsel may serve discovery on Defendants. After liability  
19 discovery is served on Defendants, regardless of which Plaintiff group was the serving party, the  
20 Individual Plaintiffs' Lead Counsel (on behalf of Direct Action Plaintiffs) and the Subrogation  
21 Plaintiffs' Lead Counsel shall collectively meet and confer with Defendants concerning  
22 Defendants' discovery responses. Plaintiffs shall not serve duplicative or cumulative discovery  
23 on Defendants.

25                  Should any Plaintiff or law firm after consultation with the Individual Plaintiffs' Lead  
26 Counsel and the Subrogation Plaintiffs' Lead Counsel believe that they need to propound  
27 liability discovery that has not been or will not be propounded by the Individual Plaintiffs' Lead

1 Counsel or the Subrogation Plaintiffs' Lead Counsel, such Plaintiff or law firm may seek an  
2 order from the Court allowing such discovery to be propounded. Otherwise, no Plaintiff may  
3 serve separate liability discovery.  
4

5           **2. By Defendants**  
6

7           Defendants will serve any liability discovery directed to any specific individual Plaintiff  
8 or the Subrogation Plaintiffs on Individual Plaintiffs' Lead Counsel, Subrogation Plaintiffs' Lead  
9 Counsel and counsel of record for the specific individual plaintiff(s). Where appropriate, the  
10 Direct Action Plaintiffs or Subrogation Plaintiffs will serve Defendants with a Master Response.  
11 To the extent such discovery relates to a specific Plaintiffs' group, Defendants may serve such  
12 discovery requests on Lead Counsel for each applicable Plaintiffs' group or, in the case of the  
13 Class Action Plaintiffs, the Committee, Lead Counsel or Committee shall similarly serve  
14 Defendants with a Master Response for such group.

15           **Stage One: Damages Discovery**  
16

17           **3. Subrogation Plaintiffs**

18           Damages discovery may be propounded to all Subrogation Plaintiffs in a Master Request  
19 to All Subrogation Plaintiffs. The Subrogation Plaintiffs will serve a Master Response to the  
20 Master Request to All Subrogation Plaintiffs, and each Subrogation Plaintiff will then serve an  
21 Adoption of the Master Response in Full or in Part. If the response adopts "in Part", the  
22 responding Subrogation Plaintiff will set forth any answers that are different from the Master  
23 Response in the Adoption. These Adoptions will be verified by each responding Subrogation  
24 Plaintiff.

25           The Subrogation Plaintiffs will set forth a list of claims for which they are seeking  
26 reimbursement. The Subrogation Plaintiffs will provide to Defendants an updated list of the  
27 names, addresses, dates of loss, claim numbers, the amounts paid by Subrogation Plaintiffs and

1 open reserves (as that information is available) as to each of the subrogated claims for which  
2 they are seeking reimbursement (hereinafter the "List of Claims") not later than June 30, 2018.  
3 The Subrogation Plaintiffs will provide an updated List of Claims at least on a quarterly basis, or  
4 more frequently as necessary to advise Defendants of additional payments made on any claims,  
5 and/or as reasonably requested by the Defendants. In any event, Subrogation Plaintiffs will  
6 provide a final List of Claims to Defendants on or before October 31, 2020 (prior to the statute of  
7 limitations), which will constitute the final list of claims to be included in the litigation.<sup>7</sup> The  
8 original and/or any amended adoption complaint filed by the Subrogation Plaintiffs will be  
9 deemed to set forth all of the information in the List of Claims provided to Defendants pursuant  
10 to this order. Any claims not disclosed by the Subrogating Plaintiffs on or before October 31,  
11 2020, will be barred by statute.

12       The parties agree that the Lists of Claims provided by the Subrogation Plaintiffs will not  
13 be admissible in evidence unless the Defendants later reach an agreement with the Subrogation  
14 Plaintiff that prepared the List of Claims that the List of Claims is admissible.

15       The Subrogation Plaintiffs will produce claim files on a rolling basis. The parties will  
16 meet and confer regarding a schedule and protective order to govern the production of claim files  
17 and will report back to the Court on this issue in the next joint CMC statement. The Subrogation  
18 Plaintiffs will continue to produce on a rolling basis any supplements to the claim files as  
19 required to update Defendants on any additional payments made on the claims following the  
20 production of the claim files. Defendants will also be notified of additional payments on any of  
21 the claims by the Subrogating Plaintiffs by the periodic production of an updated List of Claims.  
22 Claim files may be requested sooner for any Plaintiff claiming a preference or on a case-by-case  
23 basis, and Subrogation Plaintiffs will make every effort to produce such claim files within 15  
24 days of a request.

25  
26  
27       <sup>7</sup> This is not an implication that trials be delayed until after this date.

1                   **4. Individual Plaintiffs**

2                   Each individual plaintiff shall complete the Notice of Adoption of Master Complaint  
3 which contains specific facts regarding the case. All other damages case specific discovery is  
4 stayed including any written discovery, contention discovery, or deposition discovery until  
5 further order of the court and as contemplated by sections below relating to bellwether trial  
6 settings and preference trial settings.

7                   **Privileged Communications**

8                   Pursuant to the parties' agreement, the communication, transmission, or dissemination of  
9 information of common interest among Plaintiffs' counsel or among Defendants' counsel shall  
10 be protected by the attorney-client privilege, the protections afforded by the attorney work  
11 product doctrine, the protections afforded to material prepared for litigation or any other  
12 privilege to which a party may otherwise be entitled. Further, cooperative efforts shall not in any  
13 way be used against any of the parties, be cited as purported evidence of conspiracy, wrongful  
14 action or wrongful conduct, and shall not be communicated to any jury.

15                   **Trial**

16                   *Preferential Trial Settings:* The Plaintiffs anticipate that it may be appropriate to file  
17 motions for preferential trial settings per C.C.P. § 36.

18                   *Bellwether Process:* The parties have agreed to meet and confer on the scope and  
19 procedure relating to any potential bellwether process, including a bellwether case selection  
20 process, case specific discovery and law and motion practice in bellwether and non-bellwether  
21 cases, if any, and the conduct of bellwether trials. The parties contemplate that if they agree upon  
22 a bellwether process, an order of this Court relating to the bellwether process will include: trial  
23 settings and the bellwether selection process, discovery and motion practice appropriate for  
24  
25  
26  
27

1 bellwether selected cases, and whether or not motion practice may be appropriate to cases  
2 outside of those selected as bellwethers.  
3

4       *Jury or Non-Jury:* Plaintiffs demand jury trials.  
5

6       *Trial Date:* Trial dates and length, and close of discovery dates will be set in future case  
7 management conferences.  
8

9       *Place of Trial:* Complaints in this matter have been filed in the Superior Court of Napa,  
10 Sonoma, and San Francisco. Locations of trials are reserved for future consideration.  
11

12      ***Pro Hac Vice Admissions:***

13      A number of counsel have been admitted *pro hac vice* in the underlying cases now  
14 coordinated in this JCCP. Such counsel are deemed admitted for all purposes in this JCCP and  
15 all current and future actions coordinated in this JCCP. Counsel not yet been admitted *pro hac*  
16 *vice* shall file his or her *pro hac vice* application with this Court.  
17

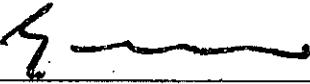
18      *Protective Order:* The parties are expected to present a proposed stipulated protective  
19 order within 30 days. I ask the parties to review the Department's User Manual especially on  
20 sealing issues, and to resist the urge to over-designate under the protective order.  
21

22      **Next Case Management Conference**

23      A date will be selected for the next CMC at the May 18, 2018 hearing. In addition to  
24 issues noted above, the parties are invited to advise on (1) the status of a discovery plan,  
25 including discovery focused on e.g., (i) PG&E policies and actions and (ii) causes and  
26 circumstances of ignitions; (2) whether a cut-off date for the addition of new parties should be  
27 set (which could be avoided on a showing that new information supported leave of court to add

1 the party); a general description of the discovery required for meaningful settlement discussions,  
2 and the likely time needed to acquire it.  
3

4 Dated: March 6, 2018

5   
6 Curtis E.A. Karnow  
7 Judge Of The Superior Court

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

- 20 -

1      **Addendum A – Individual Plaintiffs’ Executive Committee**

2      Individual Plaintiffs request that the Court appoint the following attorneys and firms to the  
3      Executive Committee:

4      Mary Alexander  
5      Mary Alexander & Associates, P.C.  
6      44 Montgomery Street, Suite 1303  
7      San Francisco, CA 94101  
8      Tel: (415) 433-4440  
9      [malexander@maryalexanderlaw.com](mailto:malexander@maryalexanderlaw.com)

Dario de Ghetaldi  
Corey, Luzaich, de Ghetaldi & Riddle LLP  
700 El Camino Real  
Millbrae, CA 94030  
Tel: (650) 871-5666  
[deg@coreylaw.com](mailto:deg@coreylaw.com)

10     Thomas Brandi  
11     The Brandi Law Firm  
12     354 Pine St. Floor, 3rd floor  
13     San Francisco, CA 94104-3231  
14     Tel (415) 989-1800  
15     [tjb@brandilaw.com](mailto:tjb@brandilaw.com)

Michael A. Kelly (**Co-Lead**)  
Khalidoun A. Baghdadi (**Co-Liaison**)  
Walkup, Melodia, Kelly & Schoenberger  
650 California Street, 26th Floor  
San Francisco, CA 94108  
Tel: (415) 981-7210  
[mkelly@walkuplawoffice.com](mailto:mkelly@walkuplawoffice.com)  
[kbaghdadi@walkuplawoffice.com](mailto:kbaghdadi@walkuplawoffice.com)

16     Elizabeth Cabraser  
17     Lexi Hazam  
18     Lieff Cabraser Heimann & Bernstein, LLP  
19     275 Battery Street, 29th Floor  
20     San Francisco, CA 94111-3339  
21     Tel: (415) 956-1000  
22     [ecabraser@lchb.com](mailto:ecabraser@lchb.com)  
[lhazam@lchb.com](mailto:lhazam@lchb.com)

Brendan M. Kunkle  
Michael Green  
Abbey, Weitzenberg, Warren & Emery  
100 Stony Point Rd, Suite 200  
Santa Rosa, CA 95401  
Tel: (707) 542-5050  
[bkunkle@abbeylaw.com](mailto:bkunkle@abbeylaw.com)  
[mgreen@abbeylaw.com](mailto:mgreen@abbeylaw.com)

23     Steven M. Campora  
24     Dreyer Babich Buccola Wood Campora LLP  
25     20 Bicentennial Circle  
26     Sacramento, CA 95826  
27     Tel: (916) 379-3500  
28     [scampora@dbbw.com](mailto:scampora@dbbw.com)

Brian Panish  
Rahul Ravipudi  
Panish Shea & Boyle, LLP  
11111 Santa Monica Blvd. #700  
Los Angeles, CA 90025  
Tel: (310) 477-1700  
[panish@psblaw.com](mailto:panish@psblaw.com)  
[ravipudi@psblaw.com](mailto:ravipudi@psblaw.com)

29     Ahmed S. Diab  
30     Dixon Diab & Chambers LLP  
31     501 W. Broadway, Suite 800  
32     San Diego, CA 92101  
33     Tel: (619) 354-2662  
34     [diab@theddcfirm.com](mailto:diab@theddcfirm.com)

Frank Pitre (**Co-Lead**)  
Cotchett, Pitre & McCarthy, LLP  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
Tel: (650) 697-6000  
[fpitre@cpmlegal.com](mailto:fpitre@cpmlegal.com)

35     Amy Eskin (**Co-Liaison**)  
36     Levin Simes LLP  
37     44 Montgomery Street, Floor 32  
38     San Francisco, CA 94104  
39     Tel: (415) 426-3000  
40     [aeskin@levinsimes.com](mailto:aeskin@levinsimes.com)

Bill Robins III (**Co-Lead**)  
Robins Cloud, LLP  
808 Wilshire Boulevard, Suite 450  
Santa Monica, CA 90401  
Tel: (310) 929-4200  
[robins@robinscloud.com](mailto:robins@robinscloud.com)

1      Mark Robinson  
2      Robinson Calcagnie, Inc.  
3      19 Corporate Plaza Dr.  
4      Newport Beach, CA 92660  
5      Tel: (949) 720-1288  
6      [mrobinson@robinsonfirm.com](mailto:mrobinson@robinsonfirm.com)  
7  
8      Steve Skikos (Co-Liaison)  
9      Greg Skikos  
10     Matt Skikos  
11     Skikos, Crawford, Skikos & Joseph, LLP  
12     One Sansome Street, Suite 2830  
13     San Francisco, CA 94104  
14     Tel: (415) 546-7300  
15     [sskikos@skikos.com](mailto:sskikos@skikos.com)  
16     [gskikos@skikos.com](mailto:gskikos@skikos.com)  
17     [mskikos@skikos.com](mailto:mskikos@skikos.com)  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Scott Summy (Lead for Public Entities)  
Baron & Budd  
N 7000 Mopac Service Road #200  
Austin, TX 78731  
Tel: (214) 521-3605  
[ssummy@baronbudd.com](mailto:ssummy@baronbudd.com)

1      **Addendum B – Individual Plaintiffs' Steering Committee**

2      Individual Plaintiffs request that the Court create and name the following individuals to a  
3      Steering Committee:

4      Elliot Adler  
5      Adler Law Group, APLC  
6      402 W. Broadway, Suite 860  
7      San Diego, CA 92101  
8      Tel: (619) 531-8700  
9      eadler@theadlerfirm.com

Patrick McNicholas  
McNicholas & McNicholas, LLP  
10866 Wilshire Blvd., Suite 1400  
Los Angeles, CA 90024  
Tel: (310) 474-1582  
pmc@mcnicholaslaw.com

10     Michael Caddell  
11     Cynthia Chapman  
12     Caddell & Chapman  
13     628 E. 9th Street  
14     Houston, TX 77077  
15     Tel: (713) 751-0400  
mac@caddellchapman.com  
cbc@caddellchapman.com

Francis O. Scarpulla  
Law Offices of Francis O. Scarpulla  
456 Montgomery Street, 17th Floor  
San Francisco, CA 94104  
Tel: (415) 788-7210  
fos@scarpullalaw.com

16     Don Edgar  
17     Edgar Law Firm  
18     408 College Avenue  
19     Santa Rosa, CA 95401  
20     Tel: (707) 799-4090  
don@classattorneys.com

Christopher Sieglock  
Sieglock Law, APC  
1221 Camino Del Mar  
Del Mar, CA 92014  
Tel: (858) 793-0380  
chris@sieglocklaw.com

21     Dave Fox  
22     Fox Law, APC  
23     Plaza Building  
24     225 West Plaza Street, Suite 102  
25     Solana Beach, CA 92075  
26     Tel: (858) 256-7616  
dave@foxlawapc.com

Gerald Singleton  
Singleton Law Firm  
115 Plaza St  
Solana Beach, CA 92075  
Tel: (760) 697-1330  
gerald@slffirm.com

27     Sean Higgins  
28     Andrews & Thornton  
29     2 Corporate Park, Suite 110  
30     Irvine, California 92606  
31     Tel: (949) 748-1000  
shiggins@andrewsthornton.com

Terry L. Singleton  
Terry Singleton, APC  
1950 5<sup>th</sup> Avenue, Suite 200  
San Diego, CA 92101-2344  
Tel: (619) 239-3225  
terry@terrysingleton.com

32     John F. McGuire  
33     Thorsnes Bartolotta McGuire, LLP  
34     2550 Fifth Avenue, 11<sup>th</sup> Floor  
35     San Diego, CA 92103  
36     Tel: (619) 236-9363  
mcguire@tbmlawyers.com

Tom Tosdal  
777 South Highway 101, Suite 215  
Solana Beach, CA 92075  
Tel: (858) 704-4709  
tom@tosdallaw.com

37     Mikal C. Watts  
38     Guy Watts  
39     Watts Guerra LLP  
40     5726 W. Hausman Rd, Suite 119  
41     San Antonio, Texas  
42     Tel: (210) 527-0500  
mcwatts@wattsguerra.com  
gwatts@wattsguerra.com

1 Ben Wilson  
2 Morgan & Morgan, PLLC  
3 4450 Old Canton Rd. Suite 200  
4 Jackson, MS 39211  
5 Tel: (601) 949-3388  
6 [BWilson@ForThePeople.com](mailto:BWilson@ForThePeople.com)

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT 3

1 MICHAEL A. KELLY (State Bar #71460)  
2 mkelly@walkuplawoffice.com  
3 KHALDOUN A. BAGHDADI (State Bar #190111)  
4 kbaghdadi@walkuplawoffice.com  
5 **WALKUP, MELODIA, KELLY  
& SCHOENBERGER**  
6 650 California Street, 26th Floor  
7 San Francisco, CA 94108  
8 Telephone: (415) 981-7210  
9 Facsimile: (415) 391-6965

10 ANNE ANDREWS (Bar No. 103280)  
11 aandrews@andrewsthornton.com  
12 JOHN C. THORNTON (Bar No. 84492)  
13 jct@andrewsthornton.com  
14 SEAN T. HIGGINS (Bar No. 266888)  
15 shiggins@andrewsthornton.com  
16 ROBERT S. SIKO (Bar No. 312856)  
17 rsiko@andrewsthornton.com  
18 **ANDREWS & THORNTON**  
19 4701 Von Karman Ave, Suite 300  
20 Newport Beach, California 92660  
21 Telephone: (949) 748-1000  
22 Facsimile: (949) 315-3540

23 (ADDITIONAL COUNSEL LISTED ON SIGNATURE PAGES)

24 ATTORNEYS FOR PETITIONER JOHN K. TROTTER,  
25 JR., TRUSTEE OF THE PG&E FIRE VICTIM TRUST

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF SAN FRANCISCO

18 Coordination Proceeding Special Title  
19 (Rule 3.550)

JUDICIAL COUNCIL COORDINATION  
PROCEEDING NO. 4955

20 **CALIFORNIA NORTH BAY FIRE  
21 CASES**

Hon. Andrew Cheng, Dept. 613

Date: None Set

Time: None Set

Dept: 613

22 **STIPULATED PETITION FOR  
COORDINATION OF ADD-ON CASES**

23 (California Code of Civil Procedure § 404.4)

24

25

26

27

28

PETITION FOR COORDINATION OF ADD-ON CASES

Case: 105-300088 Doc# 14559-4 Filed: 08/02/24 Entered: 08/02/24 13:43:17 Page  
47 of 173

1 Pursuant to California Code of Civil Procedure § 404 *et seq.*, and California Rules of Court  
2 3.520 *et seq.*, Petitioner John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust (“Petitioner”)  
3 hereby requests that Petitioner’s actions be coordinated with Judicial Council Coordination  
4 Proceeding No. 4955 – *California North Bay Fire Cases* (“JCCP No. 4955”) as add-on cases:

- 5 a. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. Davey*  
6 *Resource Group, Inc., et al.*, San Francisco County Superior Court Case No. CGC-21-  
7 589438 (complaint filed on January 28, 2021);
- 8 b. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. Davey*  
9 *Resource Group, Inc., et al.*, San Francisco County Superior Court Case No. CGC-21-  
10 589439 (complaint filed on January 28, 2021);
- 11 c. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. ACRT Pacific,*  
12 *LLC, et al.*, San Francisco County Superior Court Case No. CGC-21-589441 (complaint  
13 filed on January 28, 2021) (together “Included Actions”).

14 A chart listing the parties to the Included Actions, and their respective, known attorneys of  
15 record, and the status of service of the complaint and summons on Defendants, is attached as  
16 Exhibit A to the accompanying Declaration of Khaldoun Baghdadi.

17 This Petition is brought on the grounds that the Included Actions present common questions  
18 of fact and law and that coordination will therefore promote the ends of justice, as required by  
19 California Code of Civil Procedure §§ 404 and 404.1, as more particularly set forth in the  
20 accompanying Memorandum of Points and Authorities and Declaration of Khaldoun Baghdadi in  
21 support of this Petition. The Included Actions relate to factual issues that overlap extensively with  
22 factual issues that were the subject of extensive discovery in actions brought against Pacific Gas  
23 and Electric Company (“PG&E”) that were previously coordinated in JCCP No. 4955. The parties  
24 have agreed that they will stipulate to, and request that the Court enter, a protective order that will  
25 allow the defendants in the Included Actions to have access to any and all discovery, document  
26 productions, physical evidence, deposition transcripts, and related repositories for discovery that  
27 were previously collected during the JCCP No. 4955 proceeding. Such a stipulated protective order  
28 would greatly expedite the discovery process in the Included Actions.

All parties have stipulated and agreed that, as part of this coordination, the Defendants in the Included Actions shall not be bound by or subject to any orders, including any case management orders, that were previously issued in JCCP No. 4955, or any deadlines established by statute or court rule that applied based on the complaints against PG&E that were previously included in JCCP No. 4955.

The parties agree that other actions that have been brought against the Defendants by numerous plaintiffs, which are pending in this Court and other Superior Courts, should be coordinated with the Included Actions. The parties do not presently have a stipulation with the numerous plaintiffs for coordination of the other actions. A stipulation will be submitted if it is obtained. Otherwise, a motion will be brought to add-on the other cases for coordination.

All parties to the Included Actions having stipulated to coordination. Petitioner requests that this Petition be granted without a hearing pursuant to California Rule of Court 3.544(d). If any written opposition is timely served and submitted, then Petitioner requests a hearing be conducted.

Dated: May 13, 2021

WALKUP, MELODIA, KELLY & SCHOENBERGER

By:

MICHAEL A. KELLY  
KHALDOUN A. BAGHDADI  
650 California Street, 26<sup>th</sup> Floor  
San Francisco, CA 94108  
Tel: (415) 981-7210  
Fax: (415) 391-6965  
[mkelly@walkuplawoffice.com](mailto:mkelly@walkuplawoffice.com)  
[kbaghdadi@walkuplawoffice.com](mailto:kbaghdadi@walkuplawoffice.com)

ANDREWS & THORNTON

SEAN T. HIGGINS  
4701 Von Karman Ave., Suite 300  
Newport Beach, CA 92660  
Tel (949) 748-1000  
Fax (949) 315-3540  
[shiggins@andrewsthornton.com](mailto:shiggins@andrewsthornton.com)

1 GREENBERG GROSS LLP

2  
3 ALAN A. GREENBERG  
4 WAYNE R. GROSS  
5 EVAN C. BORGES  
6 601 South Figueroa Street, 30<sup>th</sup> Floor  
7 Los Angeles, California 90017  
8 Tel: (213) 334-7000  
9 Fax: (213) 334-7001  
10 [AGreenberg@GGTrialLaw.com](mailto:AGreenberg@GGTrialLaw.com)  
11 [WGross@GGTrialLaw.com](mailto:WGross@GGTrialLaw.com)  
12 [EBorges@GGTrialLaw.com](mailto:EBorges@GGTrialLaw.com)

13 COTCHETT PITRE & McCARTHY

14 FRANK M. PITRE  
15 San Francisco Airport Office Center  
16 840 Malcolm Road, Suite 200  
17 Burlingame, CA 94010  
18 Tel: (650) 697-6000  
19 Fax: (650) 697-0577  
20 [fpitre@cpmlegal.com](mailto:fpitre@cpmlegal.com)

21 DREYER, BABICH, BUCCOLA, WOOD, CAMPORA

22 STEVEN M. CAMPORA  
23 20 Bicentennial Circle  
24 Sacramento, CA 95826  
25 Tel: (916) 379-3500  
26 Fax: (916) 379-3599  
27 [scampora@dbbw.com](mailto:scampora@dbbw.com)

28 COREY, LUZAICH, DE GHETALDI & RIDDLE, LLP

29 DARIO de GHETALDI  
30 700 El Camino Real  
31 PO Box 669  
32 Millbrae, CA 94030  
33 Tel: (650) 871-5666  
34 Fax: (650) 871-4144  
35 [deg@coreylaw.com](mailto:deg@coreylaw.com)

36 Attorneys for Petitioner John K. Trotter,  
37 Jr., Trustee of the PG&E Fire Victim  
38 Trust

## **TABLE OF CONTENTS**

2	Page(s)
3	MEMORANDUM OF POINTS AND AUTHORITIES ..... 7
4	I.     Introduction ..... 7
5	II.    The Status of the Included Actions and Coordinated Actions ..... 8
6	III.   The Included Actions Are Complex Cases as Defined by California Rule of Court 3.400 ..... 8
7	IV.    Coordination Will Satisfy The Requirements of CCP § 404.1 ..... 9
8	V.     Consent of the Other Parties ..... 10
9	VI.    Hearing on the Petition ..... 11
	VII.   Conclusion ..... 11
	DECLARATION OF KHALDOUN BAGHDADI ..... 13

## **TABLE OF AUTHORITIES**

Page(s)

2	
3	<b>Cases</b>
4	<i>McGhan Medical Corp. v. Superior Court,</i>
5	11 Cal. App. 4th 804 (1992).....8
6	<b>Statutes</b>
7	Cal. Civ. Proc. Code § 404.1.....8, 9
8	<b>Rules</b>
9	Cal. R. Ct. 3.400.....7
10	Cal. R. Ct. 3.400(b)(1) .....
11	Cal. R. Ct. 3.400(b)(2) .....
12	Cal. R. Ct. 3.400(b)(3) .....
13	Cal. R. Ct. 3.544(b).....9
14	Cal. R. Ct. 3.521.....12
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	

## **MEMORANDUM OF POINTS AND AUTHORITIES**

## I. INTRODUCTION

Petitioner John K. Trotter, Jr. is the duly-appointed Trustee of the PG&E Fire Victim Trust (the “Fire Victim Trust” or the “Trust”), which was established pursuant to the Plan of Reorganization confirmed in the *In re: PG&E Corporation* Chapter 11 bankruptcy action, Case No. 19-30088. The Trustee is a resident of the State of California. The Trust is a Delaware statutory trust.

The Plan resulted in the creation of the Trust. Case No. 19-30088, D.E. 8053. The Trust was established to administer individual victims' claims against Pacific Gas and Electric Company ("PG&E") related to the Wildfires, which were caused by PG&E's electrical equipment. The Plan empowered the Trust to recover additional funds for the benefit of victims of the Wildfires, including by bringing the Assigned Rights and Causes of Action on behalf of PG&E against other responsible parties.

As in many of the actions brought against PG&E that were previously coordinated in JCCP No. 4955, the Included Actions arise from the 2017 fires caused by PG&E's electrical equipment in Northern California ("North Bay Fires"). The Included Actions also involve allegations concerning fires in 2015 and 2018. The Included Actions are brought against contractors of PG&E that are alleged to have contributed to or caused certain of the North Bay Fires by failing to adequately perform vegetation management in the vicinity of PG&E's electrical lines—and are based overlapping factual allegations. (See Baghdadi Decl., Exs. B-D.)

JCCP No. 4955 was established to promote justice and judicial efficiency by coordinating the actions brought against PG&E concerning the North Bay Fires, among other wildfires, for pre-trial purposes (the “Coordinated Actions”). Although the Coordinated Actions against PG&E have been dismissed as a result of the confirmed plan of reorganization in PG&E’s bankruptcy, a substantial amount of discovery, depositions, and motion practice occurred under JCCP No. 4955 that will be relevant to the resolution of the Included Actions. The Included Actions will require resolution of a substantial number of questions of law and fact that overlap with the cases that were previously coordinated under JCCP No. 4955, including, among other things: (a) the cause of the

1 ignition of the North Bay fires, (b) vegetation management contractors' inspections and trimming  
2 of vegetation in the vicinity of PG&E's electrical lines, (c) the foreseeability of extreme weather  
3 events contributing to the North Bay Fires, (d) the operation of PG&E's vegetation management  
4 program, and (e) the performance or alleged failure to perform contractual duties undertaken by the  
5 vegetation management contractors.

6 Denying coordination of the Included Actions into JCCP No. 4955 would result in multiple,  
7 duplicative proceedings and a substantial duplication of effort in the Included Actions, as well as  
8 risk inconsistent results. Since the interests of the courts, judicial economy, witnesses, and parties  
9 all weigh heavily *against* separately litigating the Included Actions, Petitioner respectfully requests  
10 that the Included Actions be coordinated as add-on cases to JCCP No. 4955.

11 **II. THE STATUS OF THE INCLUDED ACTIONS AND COORDINATED ACTIONS**

12 Petitioner seeks coordination of the following actions (the "Included Actions") in JCCP  
13 No. 4955:

14 a. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. Davey*  
15 *Resource Group, Inc., et al.*, San Francisco County Superior Court Case No. CGC-21-  
16 589438 (complaint filed on January 28, 2021);

17 b. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. Davey*  
18 *Resource Group, Inc., et al.*, San Francisco County Superior Court Case No. CGC-21-  
19 589439 (complaint filed on January 28, 2021);

20 c. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. ACRT Pacific,*  
21 *LLC, et al.*, San Francisco County Superior Court Case No. CGC-21-589441 (complaint  
22 filed on January 28, 2021).

23 The Included Actions were served on all defendants in February 2021. No pretrial motions  
24 have been filed or heard in the Included Actions.

25 **III. THE INCLUDED ACTIONS ARE COMPLEX CASES AS DEFINED BY**  
26 **CALIFORNIA RULE OF COURT 3.400**

27 The Included Actions are complex within the meaning of California Rule of Court 3.400 in  
28 that they will require extensive judicial management to avoid placing unnecessary burdens on the

1 courts and the litigants and to expedite the cases, keep costs reasonable, and promote efficient  
2 decision making by the courts, the parties, and counsel. *See* Cal. R. Ct. 3.400(b)(1)-(2). For  
3 example, the Included Actions are expected to involve, among other things, numerous pretrial  
4 motions raising difficult and novel legal issues that will be time-consuming to resolve. (Baghdadi  
5 Decl. ¶ 5.) The Included Actions also will likely involve a large number of witnesses and a  
6 substantial amount of discovery and documentary evidence, which overlap with discovery  
7 previously conducted in JCCP No. 4955, concerning many individual tree inspections and  
8 trimmings, training materials and courses, hiring decisions, supervisory decisions, investigations  
9 by regulatory and enforcement agencies, and other complex factual issues. (Baghdadi Decl. ¶ 6.)  
10 The Included Actions likely will require management of a large number of separately related  
11 parties. *See* Cal. R. Ct. 3.400(b)(3).

12 **IV. COORDINATION WILL SATISFY THE REQUIREMENTS OF CCP § 404.1**

13 The Included Actions indisputably satisfy the standard for coordination as add on cases to  
14 JCCP No. 4955 as set forth in Section 404.1 of the California Code of Civil Procedure, which  
15 provides:

16 Coordination of civil actions sharing a common question of fact or  
17 law is appropriate if one judge hearing all of the actions for all  
18 purposes in a selected site or sites will promote the ends of justice  
19 taking into account whether the common question of fact or law is  
20 predominating and significant to the litigation; the convenience of  
21 parties, witnesses, and counsel; the relative development of the  
actions and the work product of counsel; the efficient utilization of  
judicial facilities and manpower; the calendar of the courts; the  
disadvantages of duplicative and inconsistent rulings, orders, or  
judgments; and, the likelihood of settlement of the actions without  
further litigation should coordination be denied.

22 Many, if not a majority, of the questions of law or fact that can be reasonably expected to  
23 arise in the Included Actions regarding vegetation management will overlap with those that were  
24 the subject of the actions against PG&E in JCCP 4955, including the question of the defendants'  
25 duty and issues of liability. (Baghdadi Decl. ¶¶ 7-9.) The convenience of the parties, witnesses, and  
26 counsel, as well as the need to preserve judicial resources, all favor coordination.

27 Petitioner expect defendants in the Included Actions to file voluminous motions related to  
28 the pleadings, discovery, the scope of the claims at issue, and the Court's jurisdiction. In light of

1 the expected volume of motion practice and overlapping discovery in both the Included Actions, it  
2 would be far more efficient for all involved if these issues are resolved in a coordinated manner in  
3 JCCP No. 4955, instead of in piecemeal fashion. *See McGhan Medical Corp. v. Superior Court*, 11  
4 Cal. App. 4th 804, 814 (1992) (finding preparation for trial of similar actions “better achieved if  
5 done in a coordinated manner”). Coordination also removes the possibility of inconsistent rulings  
6 and the need for multiple appeals. *See Cal. Civ. Proc. Code § 404.1* (noting the “disadvantages of  
7 duplicative and inconsistent rulings, orders, or judgments”). Coordination will also increase the  
8 likelihood of a universal settlement of the Included Actions.

9 In addition to reducing the burden on assigned judges’ calendars in the Included Actions  
10 and more efficiently utilizing judicial facilities and resources, coordination will further serve the  
11 interests of convenience to the parties, witnesses, and counsel. Coordination will serve the  
12 convenience of counsel who will not have to make appearances on the same or similar issues in  
13 multiple courtrooms on separate days. Coordination will also serve the convenience of the parties  
14 and witnesses who, with a streamlined and organized discovery process in place, would avoid  
15 duplicative depositions.

16 **V. CONSENT OF THE OTHER PARTIES**

17 At the time of the filing of the instant Petition, Petitioner herein and Plaintiff in the each of  
18 the Included Action has consented to coordination of the Included Actions in JCCP No. 4955 as  
19 add-on cases. (Baghdadi Decl. ¶ 11.)

20 The defendants named in the Included Actions have agreed to coordination and so stipulate  
21 that the coordination of the Included Actions into JCCP No. 4955 is appropriate. (Baghdadi Decl.  
22 ¶ 11.)

23 Petitioner and the defendants agree that other actions that have been brought against the  
24 Defendants by numerous plaintiffs, which are pending in this Court and other Superior Courts, also  
25 should be coordinated with the Included Actions once they are added to JCCP No. 4955. The parties  
26 do not presently have a stipulation with the numerous plaintiffs for coordination of the other actions.  
27 A stipulation will be submitted if it is obtained. Otherwise, a motion will be brought to add-on the  
28 other cases for coordination. (Baghdadi Decl. ¶ 13.)

1       **VI. HEARING ON THE PETITION**

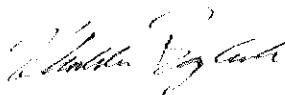
2              If no defendant in the Included Actions serves and submits a written opposition to this  
3 Petition within the time allowed by California Rule of Court 3.544(b), Petitioner requests that this  
4 Petition be granted without a hearing. If any such written opposition is timely served and submitted,  
5 then Petitioner requests a hearing be conducted, should the Court deem a hearing necessary.

6       **VII. CONCLUSION**

7              For the reasons stated above, the Petition for Coordination of Add-On Cases should be  
8 granted.  
9

10          Dated: May 13, 2021

WALKUP, MELODIA, KELLY & SCHOENBERGER

11              By: 

12              MICHAEL A. KELLY  
13              KHALDOUN A. BAGHDADI  
14              650 California Street, 26<sup>th</sup> Floor  
15              San Francisco, CA 94108  
16              Tel: (415) 981-7210  
17              Fax: (415) 391-6965  
[mkelly@walkuplawoffice.com](mailto:mkelly@walkuplawoffice.com)  
[kbaghdadi@walkuplawoffice.com](mailto:kbaghdadi@walkuplawoffice.com)

18  
19              ANDREWS & THORNTON

20              SEAN T. HIGGINS  
21              4701 Von Karman Ave., Suite 300  
22              Newport Beach, CA 92660  
23              Tel (949) 748-1000  
24              Fax (949) 315-3540  
[shiggins@andrewsthornton.com](mailto:shiggins@andrewsthornton.com)

1  
2                   GREENBERG GROSS LLP  
3

4                   ALAN A. GREENBERG  
5                   WAYNE R. GROSS  
6                   EVAN C. BORGES  
7                   601 South Figueroa Street, 30<sup>th</sup> Floor  
8                   Los Angeles, California 90017  
9                   Tel: (213) 334-7000  
10                  Fax: (213) 334-7001  
11                  AGreenberg@GGTrialLaw.com  
12                  WGross@GGTrialLaw.com  
13                  EBorges@GGTrialLaw.com  
14

15                  COTCHETT PITRE & McCARTHY  
16

17                  FRANK M. PITRE  
18                  San Francisco Airport Office Center  
19                  840 Malcolm Road, Suite 200  
20                  Burlingame, CA 94010  
21                  Tel: (650) 697-6000  
22                  Fax: (650) 697-0577  
23                  fptre@cpmlegal.com  
24

25                  DREYER, BABICH, BUCCOLA, WOOD, CAMPORA  
26

27                  STEVEN M. CAMPORA  
28                  20 Bicentennial Circle  
29                  Sacramento, CA 95826  
30                  Tel: (916) 379-3500  
31                  Fax: (916) 379-3599  
32                  scampora@dbbw.com  
33

34                  COREY, LUZAICH, DE GHETALDI & RIDDLE, LLP  
35

36                  DARIO de GHETALDI  
37                  700 El Camino Real  
38                  PO Box 669  
39                  Millbrae, CA 94030  
40                  Tel: (650) 871-5666  
41                  Fax: (650) 871-4144  
42                  deg@coreylaw.com  
43

44                  Attorneys for Petitioner John K. Trotter,  
45                  Jr., Trustee of the PG&E Fire Victim  
46                  Trust  
47

## **DECLARATION OF KHALDOUN BAGHDADI**

I, Khaldoun Baghdadi, hereby state and declare as follows:

1. I am admitted to practice before this Court and am a Partner at the law firm of Walkup, Melodia, Kelly & Schoenberger, counsel for Petitioner, John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust. I make this declaration in support of the instant Petition for Coordination of Add-On Cases. If called as a witness I could competently testify to the following based upon my own personal knowledge, except where based on a review of pleadings and records.

2. The Petition seeks to coordinate the following actions with Judicial Council Coordination Proceeding No. 4955 – CALIFORNIA NORTH BAY FIRE CASES (“JCCP No. 4955”) as add-on cases:

a. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. Davey Resource Group, Inc., et al.*, San Francisco County Superior Court Case No. CGC-21-589438 (complaint filed on January 28, 2021);

b. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. Davey Resource Group, Inc., et al.*, San Francisco County Superior Court Case No. CGC-21-589439 (complaint filed on January 28, 2021);

c. *John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust v. ACRT Pacific, LLC, et al.*, San Francisco County Superior Court Case No. CGC-21-589441 (complaint filed on January 28, 2021)

3. No pretrial motions have been pursued in the Included Actions. Attached hereto as Exhibit A is a chart prepared by Petitioner pursuant to California Rule of Court 3.521 listing the parties to the Included Actions and their respective known attorneys of record, the status of pretrial or discovery motions or orders, and the status of service of the complaints and summonses on Defendants.

4. Attached hereto as Exhibits B-D are true and correct copies of the operative complaints in Included Actions.

5. The Included Actions are “complex” as that term is defined by California Rules of Court 3.400 *et seq.* The Included Actions are complex because they all will they require extensive

1 judicial management to avoid placing unnecessary burdens on the courts and the litigants and to  
2 expedite the cases, keep costs reasonable, and promote efficient decision making by the courts, the  
3 parties, and counsel. Among other things, Petitioner anticipates that the Included Actions will  
4 involve numerous pretrial motions raising difficult and novel legal issues that will be time-  
5 consuming to resolve.

6       6. As with the actions against Pacific Gas and Electric Company (“PG&E”) that were  
7 the subject of JCCP No. 4955, the Included Actions also will likely involve a large number of  
8 witnesses and a substantial amount of overlapping discovery and documentary evidence concerning  
9 many individual tree inspections and trimmings, training materials and courses, hiring decisions,  
10 supervisory decisions, investigations by regulatory and enforcement agencies, and other complex  
11 factual issues. At the same time, litigating the Included Actions likely will require dozens of expert  
12 witnesses.

13       7. Petitioner has asserted claims against eight separate defendants spanning the three  
14 Included Actions. While Petitioner is represented by the same counsel in each action, the Included  
15 Actions will involve multiple separately represented defendants.

16       8. Petitioner anticipates that the Included Actions will be motion intensive, including  
17 discovery motions, dispositive motions, and other pretrial motions on scientific or other factual  
18 issues. Coordination will avoid the potential for inconsistent rulings on nearly identical motions  
19 and avoid wasteful, duplicative motion practice.

20       9. Nearly every question of law or fact that can be reasonably expected to arise in the  
21 Included Actions regarding the vegetation management contractors will be the same, including the  
22 question of their duty and issues of liability. Indeed, the only issues that foreseeably will differ  
23 between cases is the amount of damages claimed by Plaintiff and issues of specific-causation.

24       10. The Included Actions are currently pending in San Francisco County Superior  
25 Court; the JCCP is similarly based in San Francisco County. Coordination also will serve the  
26 convenience of counsel as well as serve the convenience of the parties and witnesses who, with a  
27 streamlined and organized discovery process in place, would avoid duplicative depositions. So too  
28 will having one judge rule on multiple similar motions save counsel from filing duplicative

1 motions. With one pretrial judge, multiple courts will not have to review nearly identical motions  
2 which are apt to occur on motions to quash, discovery motions, and other pretrial motions. This  
3 will help foster judicial economy and preserve valuable judicial resources. Again, this case could  
4 potentially involve a number of voluminous motions, including demurrers, discovery motions, and  
5 other pretrial motions on scientific or other factual issues. Coordination will avoid the potential for  
6 inconsistent rulings on nearly identical motions and avoid wasteful, duplicative motion practice.  
7 Coordination will also allow for an efficient pretrial process which may encourage settlement since  
8 such a process will allow the parties to conserve resources while affording them an opportunity to  
9 assess all of the cases on their factual merits.

10       11. On behalf of my client—Petitioner and plaintiff in the Included Actions—I consent  
11 to coordination of the Included Actions as add-on cases in JCCP No. 4955. Counsel for each of the  
12 defendants in the Included Actions (listed in Exhibit A to this Declaration) have consented to  
13 coordination of the Included Actions as add-on cases in JCCP No. 4955.

14       12. Petitioner is informed and believes that San Francisco County Superior Court has  
15 sufficient facilities and judicial resources to coordinate the Included Actions JCCP No. 4955, and  
16 that San Francisco provides an easy location for witnesses arriving to proceedings from out of town.

17       ///

18       ///

19       ///

20       ///

21       ///

22       ///

23       ///

24       ///

25       ///

26       ///

27       ///

28       ///

1       13. Petitioner and the defendants in the Included Actions have agreed that other actions  
2 that have been brought against the defendants by numerous plaintiffs, which are pending in this  
3 Court and other Superior Courts, should be coordinated with the Included Actions once they are  
4 added to JCCP No. 4955. The parties do not presently have a stipulation with the numerous  
5 plaintiffs for coordination of the other actions. A stipulation will be submitted to the Court if it is  
6 obtained. Otherwise, a motion will be brought to add-on the other cases for coordination.

7

8 I declare under penalty of perjury under the laws of the State of California that the foregoing is true  
9 and correct.

10

11

Executed this 13 th day of May, 2021, in San Francisco, California.

12

13

14

15

16

三

E 1

22

23

24

23

26

27

28

*A. Hulda Big Lake*

---

Khaldoun Baghdadi

# EXHIBIT A

EXHIBIT A TO DECLARATION OF KHALDOUN BAGHDADI ISO OF PETITION FOR COORDINATION OF ADD-ON CASES

Case Name	Case No.	Court Filed	Plaintiffs	Defendant Name and Name/Address of Attorney and Status of Service of Summons/Complaint	Date Filed	Status of Pretrial/Discovery Motions and Orders
<i>John K Trotter, Jr., Trustee of the PG&amp;E Fire Victim Trust v. Davey Resource Group, Inc., et al.</i>	CGC-21-589438	San Francisco County Superior Court	John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust	DAVEY RESOURCE GROUP, INC., DAVEY TREE EXPERT COMPANY, DAVEY TREE SURGERY COMPANY ➤ Summons/Complaint served ➤ Aldo E. Ibarra, Esq.; Robert M. Blum, Esq.; Penny Azizi, Esq.; Nixon Peabody, LLP One Embarcadero Center, 32nd Floor, San Francisco, CA 94111 THE ORGINIAL MOWBRAYS TREE SERVICE, INC. ➤ Summons/Complaint served ➤ Michael I. Kim, Esq. <b>CKB Vienna LLP</b> 9531 Pittsburg Avenue Rancho Cucamonga, CA 91730 <b>WESTERN ENVIRONMENTAL CONSULTANTS, INC.</b> ➤ Summons/Complaint served ➤ Randy W. Gimple, Esq.; A. David Bona, Esq. <b>Carlson Calladine &amp; Peterson LLP</b> 353 Sacramento Street, 16th Floor San Francisco, CA 94111	1/28/2021	None

<i>John K. Trotter, Jr., Trustee of the PG&amp;E Fire Victim Trust v. Davey Resource Group, Inc., et al.</i>	CGC-21- 589439	San Francisco County Superior Court	John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust	DAVEY RESOURCE GROUP, INC., DAVEY TREE EXPERT COMPANY, DAVEY TREE SURGERY COMPANY ➤ Summons/Complaint served ➤ Aldo E. Ibarra, Esq.; Robert M. Blum, Esq.; Penny Azizi, Esq.; <b>Nixon Peabody, LLP</b> One Embarcadero Center, 32nd Floor, San Francisco, CA 94111	1/28/2021	None
<i>John K. Trotter, Jr., Trustee of the PG&amp;E Fire Victim Trust v. ACRT Pacific, LLC, et al.</i>	CGC-21- 589441	San Francisco County Superior Court	John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust	ACRT PACIFIC, LLC; ACRT, INC. ➤ Summons/Complaint served ➤ Brendan P. Bradley, Esq. <b>Gordon &amp; Rees LLP</b> 275 Battery Street, Suite 2000 San Francisco, CA 94111 DAVEY RESOURCE GROUP, INC., DAVEY TREE EXPERT COMPANY, DAVEY TREE SURGERY COMPANY ➤ Summons/Complaint served ➤ Aldo E. Ibarra, Esq.; Robert M. Blum, Esq.; Penny Azizi, Esq.; <b>Nixon Peabody, LLP</b> One Embarcadero Center, 32nd Floor, San Francisco, CA 94111 OSMOSE UTILITIES SERVICES, INC. ➤ Summons/Complaint served ➤ David S. Wilgus, Esq. <b>Burnham Brown</b> 1901 Harrison Street, 13th Floor Oakland, CA 94612	1/28/2021	None

# **EXHIBIT B**

1 MICHAEL A. KELLY (State Bar #71460)  
mkelley@walkuplawoffice.com  
2 KHALDOUN A. BAGHDADI (State Bar #190111)  
kbaghdadi@walkuplawoffice.com  
3 WALKUP, MELODIA, KELLY  
& SCHOENBERGER  
4 650 California Street, 26th Floor  
San Francisco, CA 94108  
Telephone: (415) 981-7210  
5 Facsimile: (415) 391-6965

6 ANNE ANDREWS (Bar No. 103280)  
aandrews@andrewsthornton.com  
7 JOHN C. THORNTON (Bar No. 84492)  
jct@andrewsthornton.com  
8 SEAN T. HIGGINS (Bar No. 266888)  
shiggins@andrewsthornton.com  
9 ROBERT S. SIKO (Bar No. 312856)  
rsiko@andrewsthornton.com  
10 ANDREWS & THORNTON  
4701 Von Karman Ave, Suite 300  
11 Newport Beach, California 92660  
Telephone: (949) 748-1000  
12 Facsimile: (949) 315-3540

13 (ADDITIONAL COUNSEL LISTED ON SIGNATURE PAGES)

14 ATTORNEYS FOR PLAINTIFF JOHN K. TROTTER,  
JR., TRUSTEE OF THE PG&E FIRE VICTIM TRUST  
15

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF SAN FRANCISCO

18  
19 JOHN K. TROTTER, JR., Trustee of the  
PG&E Fire Victim Trust,  
20

21 Plaintiff,

22 v.

23 DAVEY RESOURCE GROUP, INC.;  
DAVEY TREE EXPERT COMPANY;  
DAVEY TREE SURGERY COMPANY;  
24 THE ORIGINAL MOWBRAYS TREE  
SERVICE, INC.; WESTERN  
25 ENVIRONMENTAL CONSULTANTS,  
INC.; and DOES 1 through 25, inclusive,

26 Defendants.  
27

FILED  
Superior Court of California  
County of San Francisco

JAN 26 2021

CLERK OF THE COURT  
  
Deputy Clerk

Case No. C - 21 - 609438

COMPLAINT FOR DAMAGES

- 1) Breach of Contract (Performance and Express Contractual Indemnity)
- 2) Breach of Contract (Insurance)
- 3) Breach of Implied Duty of Good Faith and Fair Dealing
- 4) Equitable Indemnity
- 5) Negligence
- 6) Professional Negligence
- 7) Unjust Enrichment

JURY TRIAL DEMANDED

1 Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust (the  
2 "Trustee" or "Plaintiff"), brings this action against Davey Resource Group, Inc.,  
3 Davey Tree Expert Company, Davey Tree Surgery Company, The Original Mowbrays  
4 Tree Service Inc., and Western Environmental Consultants, Inc., (hereinafter  
5 collectively referred to as "VM Defendants" or "Defendants") as follows:

6 **NATURE OF THE ACTION**

7 1. Prior to 2020, Pacific Gas & Electric Company ("PG&E")<sup>1</sup> owned and  
8 operated a power grid and electrical system, which was the cause of several  
9 catastrophic wildfires, including: the Butte Fire on September 9, 2015, the Adobe,  
10 Atlas, Norrbom, Nuns, Partrick, Point, Sulphur, and Tubbs Fires on October 8 and 9,  
11 2017<sup>2</sup>, and the Camp Fire on November 8, 2018 (collectively, the "Wildfires"). Each of  
12 these fires started because of separate and distinct failures to observe due care, as  
13 well as the failure to fulfill statutory and contractual obligations on the part of the  
14 defendants named herein.

15 2. On January 29, 2019, PG&E filed a voluntary Chapter 11 bankruptcy  
16 petition in the United States Bankruptcy Court for the Northern District of  
17 California, as a result of PG&E's substantial and overwhelming liabilities associated  
18 with the 2015, 2017, and 2018 Wildfires caused by its electrical equipment. (*In re*  
19 *PG&E Corp.* (Bankr. N.D. Cal.) Case No. 19-30088, Docket Entry Nos. 7711 and  
20 8053.) After notice to all interested parties, the Bankruptcy Court confirmed a  
21 bankruptcy plan binding on PG&E, its creditors, and all parties in interest, including  
22 the victims of the Wildfires (the "Plan"), as of the Effective Date. (*In re PG&E, supra*,  
23 Docket Entry No. 8053.)

24 \_\_\_\_\_  
25 <sup>1</sup> As used herein, "PG&E" refers to the former Pacific Gas & Electric Company as it  
26 existed prior to the effective date of its Chapter 11 bankruptcy plan of July 1, 2020  
(the "Effective Date"), and not the newly emerged Pacific Gas & Electric Company.

27 <sup>2</sup> The Oakmont/Pythian Fire started on or about October 13, 2017. For ease of  
reference to the firestorm commonly referred to as the "North Bay Fires", this  
Complaint will refer to October 8 and 9, 2017 as the ignition dates.

1           3.     The Plan provided, among other things, for the creation of the Fire  
2 Victim Trust. *Id.* Pursuant to the Plan, by operation of federal law, PG&E assigned  
3 to the Trust certain rights, claims, and causes of action (the "Assigned Rights and  
4 Causes of Action"). The Assigned Rights and Causes of Action include "any and all  
5 rights, claims, causes of action, and defenses related thereto relating directly or  
6 indirectly to any of the prepetition Fires that the Debtors may have against vendors,  
7 suppliers, third party contractors and consultants (including those who provided  
8 services, directly or indirectly, regarding the Debtors' electrical system, system  
9 equipment, inspection and maintenance of the system, and vegetation  
10 management)." (*In re PG&E, supra*, Docket Entry No. 7712-1 at 1.) The claims  
11 pursued by the Trustee in this Complaint are within the Assigned Rights and Causes  
12 of Action.)

13           4.     The Trust was established for two overall purposes: (1) to provide  
14 compensation to victims of the Wildfires based on a claims-administration process;  
15 and (2) to recover additional funds for the benefit of victims of the Wildfires,  
16 including by bringing the Assigned Rights and Causes of Action on behalf of PG&E  
17 against other responsible parties. This Complaint is an asset recovery action against  
18 responsible third parties brought for the benefit of the victims of the Wildfires.

19           5.     Each VM Defendant contributed to PG&E's failure to mitigate the risk  
20 of wildfires through PG&E's systems for evaluating, inspecting and clearing trees  
21 and vegetation overgrowth, as well as other vegetation hazards such as disease and  
22 decay, in proximity to PG&E transmission and distribution lines, as necessary to  
23 comply with California regulations regarding management of vegetation along utility  
24 power lines. Each VM Defendant entered into lucrative contracts with PG&E to  
25 implement its vegetation management programs, practices, policies, and procedures  
26 (PG&E's "VM Program"). In those contracts, each VM Defendant promised PG&E  
27 that it would perform VM Program services to reduce the risk of wildfire caused by

1 vegetation issues and otherwise assist PG&E in complying with its regulatory duties.  
2 Each VM Defendant thereby joined PG&E in the solemn duty to prevent the deadly  
3 and catastrophic wildfires that could be caused by PG&E equipment.

4       6. During the relevant time period, each VM Defendant participated in,  
5 implemented and executed PG&E's VM Program.

6       7. All VM Defendants held themselves out as fully capable to advise  
7 regarding, if not experts in, evaluating and managing trees and other vegetation  
8 that, due to their proximity to power transmission and distribution lines, pose a risk  
9 of damaging utility lines and causing fires. Each VM Defendant subsequently failed  
10 to perform or negligently performed their duties. In addition to PG&E itself, the  
11 known and foreseeable victim of wildfires, who would be injured and damaged by VM  
12 Defendants' breach of their duties, were California residents and businesses in the  
13 area of the PG&E electrical grid in Northern California. The VM Defendants' acts  
14 and omissions were substantial contributing causes of the Wildfires.

15       8. The failures that caused the Wildfires arose from the combined conduct  
16 of PG&E and VM Defendants, each of whom failed in their essential roles in reducing  
17 the risk of fires caused by vegetation.

18       9. In the aftermath of the Wildfires, California regulatory officials  
19 uncovered PG&E practices permitting dangerous conditions, which caused the  
20 individual Wildfires, to go uncorrected. In particular, California regulatory officials  
21 found that PG&E failed to abide by legal safety requirements for managing  
22 vegetation near its power lines. These substandard, negligent and dangerous  
23 practices were contributed to, caused, and/or exacerbated by VM Defendants'  
24 breaches of their contractual duties and duties of care with respect to PG&E's VM  
25 Programs.

26       ////

27       ////

28

## **GENERAL ALLEGATIONS**

## A. The Parties

3       10. Plaintiff Trustee of the PG&E Fire Victim Trust. Plaintiff John K.  
4 Trotter, Jr. is the duly appointed Trustee of the PG&E Fire Victim Trust (the “Fire  
5 Victim Trust” or the “Trust”), which was established pursuant to the Plan. The  
6 Trustee is a resident of the State of California. The Trust is a Delaware statutory  
7 trust.

8        11. The Plan resulted in the creation of the Trust. Case No. 19-30088, D.E.  
9 8053. The Trust was established to administer individual victims' claims against  
10 PG&E related to the Wildfires, which were caused by PG&E's electrical equipment.

11       12.    Defendant Davey Resource Group, Inc. Davey Resource Group, Inc.,  
12 ("Davey Resource") is a corporation organized and existing under the laws of  
13 Delaware with its principal place of business in Kent, Ohio. At all relevant times,  
14 Davey Resource has been licensed to do business in and actually conducted business  
15 in the State of California. Davey Resource is a professional services company offering  
16 a suite of vegetation management services for utility operations, including  
17 performance of pre-inspection duties for utilities' vegetation management programs,  
18 auditing or quality control of vegetation management work, creation of vegetation  
19 clearance work orders, and other related vegetation management work. In the course  
20 of said business, Davey Resource was hired by and performed vegetation  
21 management services for PG&E in the State of California as herein alleged. On  
22 information and belief, at a minimum, Davey Resource performed such services in  
23 connection with the Atlas, Partrick, Nuns, and Tubbs Fires, and may have performed  
24 vegetation management services in connection with additional separate fires.

25        13. Defendant Davey Tree Expert Company. Davey Tree Expert Company  
26 ("Davey Tree Expert") is a corporation organized and existing under the laws of Ohio  
27 with its principal place of business in Kent, Ohio. At all relevant times, Davey Tree

1 Expert has been licensed to do business in and actually conducted business in the  
2 State of California. Davey Tree Expert is a professional services company offering a  
3 suite of vegetation management services for utility operations, including responding  
4 to vegetation management work orders, performance of line clearance for vegetation  
5 issues, recording and logging clearance work performed, and, in the course of said  
6 business, was hired by and performed vegetation management services for PG&E in  
7 the State of California as herein alleged. On information and belief, at a minimum,  
8 Davey Tree Expert performed such services in connection with the Adobe, Atlas,  
9 Norrbom, Nuns, Partrick, Tubbs, and Sulphur Fires, and may have performed  
10 vegetation management services in connection with additional separate fires.

11       14. Defendant Davey Tree Surgery Company. Davey Tree Surgery Company  
12 ("Davey Tree Surgery") is a corporation organized and existing under the laws of  
13 Delaware with its principal place of business in Kent, Ohio. At all relevant times,  
14 Davey Tree Surgery has been licensed to do business in and actually conducted  
15 business in the State of California. Davey Tree Surgery is a professional services  
16 company offering a suite of vegetation management services for utility operations,  
17 including responding to vegetation management work orders, performance of line  
18 clearance for vegetation issues, recording and logging clearance work performed, and,  
19 in the course of said business, was hired by and performed vegetation management  
20 services for PG&E in the State of California as herein alleged. On information and  
21 belief, at a minimum, Davey Tree Surgery performed such services in connection  
22 with the Adobe, Atlas, Norrbom, Nuns, Partrick, Tubbs, and Sulphur Fires, and may  
23 have performed vegetation management services in connection with additional  
24 separate fires.

25       15. Defendant Original Mowbrays Tree Service. The Original Mowbrays  
26 Tree Service, Inc. ("Mowbrays") is a corporation organized and existing under the  
27 laws of California with its principal place of business in San Bernardino, California.

1 Mowbrays is a professional services company offering a suite of vegetation  
2 management services for utility operations, including responding to vegetation  
3 management work orders, performance of line clearance for vegetation issues,  
4 recording and logging clearance work performed, and, in the course of said business,  
5 was hired by and performed vegetation management services for PG&E in the State  
6 of California as herein alleged. On information and belief, at a minimum, Mowbrays  
7 performed such services in connection with the Adobe and Nuns Fires, and may have  
8 performed vegetation management services in connection separate additional fires.

9       16. Defendant Western Environmental Consultants. Western  
10 Environmental Consultants, Inc. ("Western EC") is a corporation organized and  
11 existing under the laws of California with its principal place of business in Willow  
12 Grove, Pennsylvania. Western EC a professional services company offering a suite of  
13 vegetation management services for utility operations, including performance of pre-  
14 inspection duties for utilities' vegetation management programs, auditing or quality  
15 control of vegetation management work, creation of vegetation clearance work orders,  
16 and other related vegetation management work. In the course of said business,  
17 Western EC was hired by and performed vegetation management services for PG&E  
18 in the State of California as herein alleged. On information and belief, at a minimum,  
19 Western EC performed such services in connection with the Adobe, Norrbom, and  
20 Nuns Fires, and may have performed vegetation management services in connection  
21 with additional separate fires.

22       17. At all relevant times, each VM Defendant was a business entity doing  
23 business in the State of California. Each VM Defendant held itself out as an expert in  
24 one or more of (1) performance of pre-clearance line inspection for vegetation issues,  
25 (2) performance of line clearance of vegetation issues, or (3) auditing or quality  
26 control of vegetation management work. At all relevant times, each Defendant was  
27 hired by PG&E to perform services in connection with its VM Program, with such

1 services to be performed in California.

2       18. Each Defendant was a contractor, vendor, supplier, or third-party  
3 contractor of PG&E, as defined in the Plan. Thus, PG&E's claims against the  
4 Defendants are included in the Plan's Assigned Rights and Causes of Action. To the  
5 extent that one or more of the Defendants have been purchased by, merged into, or  
6 changed its form such that it is now owned and/or controlled by a successor, the  
7 Trustee asserts the claims asserted herein against such successors, and such  
8 successors are liable for the injuries and damages alleged herein. The Trust will seek  
9 leave to amend this Complaint to identify any such successors, once information  
10 regarding any successors is developed and/or confirmed.

11       19. The true names, capacities and basis for liability, whether individual,  
12 corporate, partnership, or otherwise, of Doe Defendants 1 through 25, and each of  
13 them, are unknown to the Trustee, who therefore sues said Defendants by such  
14 fictitious names. The Trustee is informed and believes that each Defendant  
15 designated herein as a Doe was in some manner legally responsible for the events,  
16 acts, omissions, and damages alleged herein. Any reference herein to the Defendant  
17 Consultants includes Doe Defendants 1 through 25, inclusive.

18       **B. Jurisdiction and Venue**

19       20. This Court has personal jurisdiction over VM Defendants because this  
20 suit arises from the Wildfires, which occurred in California, caused damage to PG&E  
21 in California, and was caused by Defendants' services performed pursuant to  
22 contracts entered in San Francisco County. Each Defendant is qualified to do  
23 business in the State of California.

24       21. Pursuant to California Code of Civil Procedure § 395(a), venue is proper  
25 in this Court as the agreements that provide a basis for liability herein were entered  
26 into in the County of San Francisco, State of California.

27       22. The allegations contained and remedies sought herein share common

1 questions of law and fact such that they should be coordinated or otherwise added on  
2 to JCCP 4955, In Re California North Bay Fire Cases.

3       **C. Factual Allegations**

4        **1. PG&E's VM Programs**

5        23. PG&E is a utility company that supplies electrical power by way of  
6 overhead conductors throughout California, from Humboldt County to Santa Barbara  
7 County. PG&E has identified wildfires caused by its electrical equipment as a top  
8 safety and enterprise risk.

9        24. To protect against the risk of wildfires caused by its electrical  
10 equipment, PG&E utilized its VM Program. The policies, processes, procedures, and  
11 practices of PG&E's VM Program are designed to comply with the regulations of the  
12 California Public Utility Commission ("CPUC") and the California Department of  
13 Forestry and Fire Protection ("CAL FIRE"), as well as other relevant laws, statutes  
14 and regulations.

15       25. Through its VM Program, PG&E monitors approximately 100,000 miles  
16 of high-voltage overhead lines across a 70,000-square mile service area. Within that  
17 service area, PG&E is responsible for monitoring approximately 120 million trees  
18 that have the potential to grow close to, or fall on, overhead lines.

19       26. During the relevant time period, PG&E's VM Program for its  
20 distribution lines included but was not limited to, Catastrophic Event Memorandum  
21 Account ("CEMA") patrols and Routine patrols. CEMA patrols were a system-wide  
22 program of patrolling PG&E's service area, to identify, prescribe, and document work  
23 to be conducted on hazardous trees that threatened PG&E's overhead lines. Routine  
24 patrols involved patrolling and conducting tree work along PG&E's high-voltage  
25 distribution lines to comply with CPUC General Order 95, Rule 35, and Public  
26 Resources Code sections 4292 and 4293.

27       27. A CEMA patrol or Routine patrol consisted of pre-inspection, tree work,

1 and quality control analysis of the pre-inspection and tree work.

2       28. PG&E outsourced the entirety of these functions to third-party  
3 vendors—the VM Defendants—that specialized in pre-inspection, tree work, or  
4 quality control.

5       29. PG&E required onboarding or training to be completed by each VM  
6 Defendant. Pursuant to contracts between PG&E and the VM Defendants, it is each  
7 VM Defendant's responsibility to train its workforce.

8       30. Each year, PG&E spends several hundred million dollars on vegetation  
9 management. As part of the vegetation management planning process, PG&E  
10 determines annually the number of planned trees that need to be maintained, as well  
11 as the annual pre-inspection time. To ensure reliability, pre-inspection contractors  
12 are required to meet schedule attainment metrics for both CEMA and Routine  
13 patrols.

14       31. The pre-inspection process involves a contractor's pre-inspectors, also  
15 referred to as consulting utility foresters ("CUFs") or supervising consulting utility  
16 foresters ("SCUFs"), patrolling the lines listed in PG&E's project management  
17 database and looking for vegetation conditions that are potentially problematic for  
18 PG&E's overhead lines.

19       32. Under PG&E's Vegetation Management Improvement Initiative  
20 ("VMII"), pre-inspection contractors can earn an incentive if the actual number of  
21 trees identified for work is less than the pre-set target number.

22       33. On January 12, 2012, the CPUC issued Decision 12-01-032, which  
23 sought to reduce the risk of fire hazards associated with overhead power lines and  
24 communication facilities. The CPUC decision required a determination of the risk of  
25 catastrophic fires in the service territory of electrical utilities caused by their  
26 overhead electrical facilities and the preparation of a fire prevention plan with an  
27

28

1 effective date of December 21, 2012<sup>3</sup>. In response to CPUC Decision 12-01-032, PG&E  
2 developed a companywide “Fire Prevention Plan.”

3       34. PG&E has developed a number of wildfire safety plans since 2012. Each  
4 VM Defendant was hired by PG&E to be an integral part of its safety plans, and  
5 specifically the implementation and execution of VM Programs to improve safety,  
6 reduce the risk of tree failure into PG&E lines, and prevent wildfires.

## 2. The Wildfires

**(a) 2017 North Bay Fires**

9       35. On Sunday, October 8, 2017, tragedy struck communities across  
10 Northern California when a series of separate fires began to spark and spread. These  
11 deadly fires quickly spread through neighborhoods and destroyed everything in their  
12 path, including residences, vegetation, structures, and businesses.

13        36. The North Bay Fires are collectively some of the most destructive fires  
14 in California's history. In just a few weeks, the fires caused the deaths of at least 44  
15 people, hospitalized over 185 individuals, displaced about 100,000 people who were  
16 forced to leave their homes and search for safety, burned over 245,000 acres, and  
17 damaged or destroyed an estimated 14,700 homes, 3,600 vehicles, and 728  
18 businesses. A summary of the specific and distinct fires relevant to this action is as  
19 follows:

(i) The Nuns Fire

37. The Nuns Fire started near Highway 12, north of Glen Ellen, at around  
10:00 P.M. on October 8, 2017. It later merged with the Norrbom, Adobe, Partrick,  
Pressley, and Oakmont fires. Two separate broken power poles were reported at  
Highway 12 north of Glen Ellen, where the Nuns Fire started. At 10:40 P.M. Sonoma  
dispatchers were called to respond to a blown transformer at Oak Leaf and Old Oak  
Lane. The Nuns Fire was the sixth most destructive in the state's history. An Alder

<sup>3</sup> [https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC\\_4167-E.pdf](https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC_4167-E.pdf)

1 tree stem fell onto open wire on PG&E's conductors and started the fire. After  
2 merging with the Norrbom, Adobe, Partrick, Pressley and Oakmont/Pythian Fires,  
3 the Nuns Fire burned a total of 56,556 acres, destroyed over 1,500 structures, and  
4 killed three people.

## (ii) The Adobe Fire

6       38. The Adobe Fire started on October 8, 2017 at Chateau St. Jean Winery  
7 in Kenwood (Sonoma) when a Eucalyptus tree struck power lines on PG&E's Dunbar-  
8 1101 12 kV circuit near 8555 Sonoma Highway. The Adobe Fire later merged into the  
9 Nuns Fire.

### (iii) The Partrick Fire

11       39. The Partrick Fire started on October 8, 2017 at 1721 Partrick Road in  
12 the city of Napa when a Coast Live Oak tree struck power lines on PG&E's 12 kV  
13 conductors. The Partrick Fire merged into the Nuns Fire.

#### (iv) The Norrbom Fire

15        40. The Norrbom Fire started on October 8, 2017 near 16200 Norrbom Road  
16 in the city of Sonoma when a Black Oak tree branch failed and hit PG&E's power  
17 lines, sparking and igniting the tree and surrounding terrain. The Norrbom Fire  
18 later merged into the Nuns Fire.

### **3. VM Defendants' Engagement**

20       41. Prior to 2017, each VM Defendant entered into a written contract with  
21 PG&E that mandated the provision of vegetation management services. The specific  
22 content has been designated as “Confidential” or otherwise restricted from public  
23 disclosure in prior litigation involving these defendants. Plaintiff accordingly  
24 describes the general terms and obligations imposed by the agreements, all of which  
25 are in possession of the defendants.

a. patrolling distribution and transmission lines to identify and assess required tree work, including such hazardous trees or

1 portions of trees with the potential to fail and come into contact  
2 with high voltage conductors, trees near power lines that could  
3 interfere with PG&E lines, vegetation with the potential to grow  
4 into the primary conductors before the next annual trim or which  
5 is currently causing strain/abrasion of the secondary conductors,  
6 or trees which will not hold minimum clearance,  
7 b. mandates on the required timing of certification and training for  
8 inspectors,  
9 c. prescribing work to be performed,  
10 d. entering work identified and prescription information into the  
11 PG&E Vegetation Management Data Base (VMDB),  
12 e. editing the data in VMDB and creating work request form(s), and  
13 f. either undertaking to perform the work requested or assigning  
14 the work to other PG&E contractors, as directed by PG&E.

15 Each VM Defendant is responsible for having a Quality Assurance Auditor to confirm  
16 contractual compliance. Such auditor is required to have specific educational or  
17 vocational training and experience. The essence of each VM Defendant's contract was  
18 to ensure the safe and reliable operation of all PG&E distribution lines in compliance  
19 with state laws and regulations.

20 42. Additionally, each VM Defendant's contract contained a requirement  
21 that each respective VM Defendant indemnify and hold harmless PG&E from  
22 liability arising from personal injury, property injury/damage, violations of laws, or  
23 strict liability imposed by law that is connected in any way with each VM  
24 Defendant's performance of or failure to perform under the contract.

25 43. Additionally, each VM Defendant's contract also obligates it to defend  
26 any action, claim, or suit asserting a claim which might be covered by the above  
27 indemnity, as well as pay all costs and expenses that may be incurred by PG&E in

1 enforcing the indemnity, including reasonable attorney's fees.

2       44. Each VM Defendant was aware that their contract required it to  
3 indemnify PG&E even for liability that was not the result of VM Defendant's  
4 negligence so long as the liability was in any way connected with Defendant's  
5 performance of or failure to perform under the contract.

6       45. Separate and apart from the indemnity provisions in the VM  
7 Defendants' contracts with PG&E, each VM Defendant's contract required Defendant  
8 to maintain insurance coverage, including Commercial General Liability insurance,  
9 for each occurrence where the VM Defendant's performance under the contract is an  
10 any way connected with fire-related liability. It also required each VM Defendant to  
11 add PG&E as an "Additional Insured" to its Commercial General Liability coverage  
12 requirement with respect to liability arising out of or connected with the work  
13 performed by or for each VM Defendant. Each contract did not specify or limit to  
14 what insurance policies PG&E was to be added as an Additional Insured; rather,  
15 PG&E was to be added as an Additional Insured on each policy covering an instance  
16 where each VM Defendant was required to maintain Commercial General Liability  
17 insurance. The Pre-Inspection Contract also required that each VM Defendant's  
18 insurance policies must specify that Defendant's insurance is primary and that any  
19 insurance or self-insurance maintained by PG&E shall not contribute with it.

20       46. Each VM Defendant's contract contains a provision stating that if it fails  
21 to add PG&E as an Additional Insured, it must stand in the shoes of its insurance  
22 carrier to the same extent as an insurer issuing ISO form occurrence coverage  
23 without coverage deletions. Failure to do so, results in further damages, including  
24 attorney's fees and punitive damages.

25       47. As part of their contracts, VM Defendants were required to attain  
26 schedule requirements on a weekly basis to ensure that trees adjacent to or near  
27 PG&E's system lines are adequately inspected. During the term of the contract,

1 however, Defendants continually and repeatedly fell behind their schedule  
2 attainment requirements, including leading up to the Wildfires, sometimes by as  
3 much as a year. In the North Bay Division alone, in October 2017, more than 3,000  
4 trees were two months behind VM Defendants' pre-inspection schedule.

5       48. Moreover, in 2017, PG&E required its pre-inspection contractors,  
6 including VM Defendants, to identify 23 percent of the trees marked for treatment to  
7 be marked for removal. A removal designation served to both lower the risk of fire by  
8 protecting the electrical equipment and by diminishing the need for future tree work  
9 on trees with the potential to contact power lines. Yet VM Defendants routinely  
10 missed the removal threshold.

11      49. At the time of the Wildfires, VM Defendants' pre-inspectors regularly  
12 discussed amongst themselves how far behind schedule Defendants were in  
13 complying with their contractual duties to inspect PG&E's power lines for hazardous  
14 trees.

15      50. VM Defendants were aware that their pre-inspectors did not have  
16 adequate training to identify trees subject to the relevant contractual standards.

17      51. VM Defendants were also aware that their pre-inspectors did not have  
18 the contractually-required educational background and/or credentials to comply with  
19 the Pre-Inspection Contract. VM Defendants also knew those inspectors were not  
20 properly certified as required under the terms of the agreement.

21      52. VM Defendants were aware that their pre-inspectors did not know of or  
22 have the requisite knowledge to understand how to determine whether an inspection  
23 complied with requisite contractual and industry standards. Despite their awareness,  
24 VM Defendants did not test their pre-inspectors' knowledge of the relevant inspection  
25 and trimming standards. Nor did they ensure that their pre-inspectors read relevant  
26 materials designed to educate them about the relevant inspection and trimming  
27 standards.

1       53. VM Defendants were further aware that their pre-inspectors had rushed  
2 through their pre-inspection work when they fell behind their scheduled attainment  
3 requirements.

4       54. When VM Defendants fell behind schedule, their pre-inspectors would  
5 attempt to rush through their work in order to qualify for contractual financial  
6 incentives.

7       55. At all times herein alleged, and prior to the Wildfires, each VM  
8 Defendant, was aware that if they failed to perform their duties, as required under  
9 their agreements with PG&E, to the standard required of an expert in the industry,  
10 there was a significant risk of fire, damage to property owned by members of the  
11 general public, and the death to members of the general public. The VM Defendants  
12 failed to inspect the trees as required under the terms of the contract, specifically  
13 including, but not limited to, failing to inspect, prune, remove and identify trees as  
14 required by PG&E Vegetation Management program.

15       56. Specifically, each VM Defendant was aware of the significant wildfire  
16 risk posed by trees or other vegetation coming into contact with high voltage  
17 electrical transmission and distribution lines during high wind events in Northern  
18 California. More specifically, each VM Defendant was aware that prior to the  
19 Wildfires, the State of California, and in particular the counties affected by the  
20 Wildfires, had been in a prolonged state of drought. VM Defendants, and each of  
21 them, knew or should have known that the drought conditions had existed for a  
22 number of years and that fire danger was at an extraordinarily high level. VM  
23 Defendants, and each them, as arborists and vegetation experts, were aware or  
24 should have been aware that, at the time of the Wildfires, there was an abundance of  
25 undergrowth and other fuels such that the risk of a catastrophic fire was high. Each  
26 VM Defendant was aware that there had been a long history of large-scale wildfires  
27 ignited during high winds, like the Santa Ana winds, causing trees to fall into PG&E

1 electrical equipment, as well as other utilities' electrical equipment, across  
2 California.

3       57. Each VM Defendant knew or should have known that the members of  
4 the public were at great risk if they failed to fulfill their duties and perform to the  
5 standard of an expert in the utility arborist industry. Each VM Defendant knew that  
6 if the lines came into contact with vegetation a fire would likely result and that,  
7 given the drought and other weather conditions such as the Santa Ana winds, the  
8 resulting fire could cause loss of life, personal injury, significant damage to real and  
9 personal property, and other damage to members of the general public. The risk of  
10 improperly trimmed or removed trees starting large-scale, costly, and deadly  
11 wildfires by failing during high wind events and hitting electrical equipment was  
12 well-documented and foreseeable to any reasonable company providing vegetation  
13 management services to a utility. As a result of this known danger, each VM  
14 Defendant had a heightened duty of care.

15       58. Each VM Defendant held itself out as fully competent to perform and as  
16 a professional expert with sufficient expert skill, training, and knowledge to identify  
17 and trim or remove dangerous vegetation in close proximity to PG&E's infrastructure  
18 and electrical operations. Accordingly, each VM Defendant's conduct should be  
19 assessed under such professional standards.

20       59. In addition, each VM Defendant had a duty to properly inspect and  
21 identify trees and other vegetation that posed a risk to, or was endangered by,  
22 PG&E's electrical lines, to mark such trees and other vegetation for work or removal,  
23 and to remove or trim trees and other vegetation. Proper performance of these duties  
24 was necessary for each VM Defendant to comply with applicable standards of care,  
25 including but not limited to the Public Resources Code, industry standards, and  
26 PG&E's policies and procedures.

27       60. Each VM Defendant received lucrative contracts from PG&E to mitigate

1 wildfire risk. Each VM Defendant executed one or more Master Services Agreements  
2 ("MSA") with PG&E to provide vegetation management services in support of  
3 PG&E's duty to operate its electrical equipment without causing fires. The primary  
4 purpose of each MSA was to provide a set of terms, conditions, and requirements that  
5 would apply to each VM Defendant's work for PG&E. In most cases, each VM  
6 Defendant's work was also governed by a specific Contract Work Authorization  
7 ("CWA") entered into under the respective MSA. The work performed by each VM  
8 Defendant under the relevant CWA was intended to identify and mitigate the risk of  
9 vegetation hitting PG&E transmission and distribution lines during high wind  
10 events, and thus reduce the risk of widespread wildfires being ignited by PG&E lines  
11 and dangerously spreading uncontrolled through communities across Northern  
12 California.

13       61.     Each VM Defendant was aware that if it failed to perform its  
14 contractual duties to the standard required of a professional expert, a significant risk  
15 existed of a catastrophic wildfire causing injury and death to persons within the fire  
16 perimeters as well as extraordinary property damage.

17       62.     Each VM Defendant undertook the duty to properly and reasonably  
18 perform vegetation management work to identify and remediate vegetation issues  
19 around PG&E lines.

20       63.     Each VM Defendant undertook the duty to use its professional training  
21 and experience, best efforts, and reasonable care to protect foreseeable victims of  
22 fires caused by PG&E's equipment, namely, Californians in the areas serviced by  
23 PG&E's electrical system.

24       64.     Each VM Defendant, in performing under its contracts with PG&E,  
25 understood and recognized that vegetation management services were for the benefit  
26 of both PG&E and the citizens of California, who were at risk of injury and damage  
27 from wildfires caused by trees or vegetation coming into contact with or otherwise

1 damaging PG&E's electrical system.

2       65. Each VM Defendant also failed to take contractually required and  
3 industry-standard precautions that would have prevented the Wildfires from  
4 occurring.

5                  4. **PG&E Bankruptcy, Settlement and Assignment of Rights**  
6 **to the Fire Victim Trust**

7       66. Each VM Defendant's respective failure to provide the contracted  
8 services to PG&E, or to do so competently, caused devastating financial losses for  
9 PG&E in the form of its own equipment losses, as well as liabilities (both via strict  
10 liability and otherwise) to third parties who suffered death, personal injury, or  
11 property damage as a result of the Wildfires.

12       67. As alleged above, PG&E under the Plan assigned to the Fire Victim  
13 Trust the right to bring the Assigned Rights and Causes of Action to provide  
14 compensation to victims of the Wildfires, including claims for damages and  
15 indemnification on behalf of PG&E.

16       68. Among the claims resolved by the Plan were claims based on any theory  
17 of inverse condemnation. (See *In re PG&E, supra*, Docket Entry No. 8053.)

18       69. Inverse condemnation is a legal principle, rooted in the California  
19 Constitution whereby utilities such as PG&E are held strictly liable for damage  
20 arising from fires caused by utility electrical equipment. (See Cal. Const., art. I, § 19.)

21       70. On November 26, 2019, the Bankruptcy Court held that inverse  
22 condemnation applied to PG&E for all of the 2017 Northern California Wildfires and  
23 the 2018 Camp Fire. (See *In re PG&E, supra*, Docket Entry No. 4895.)

24       71. As the Bankruptcy Court explained: "In short, the California  
25 Constitution imposes strict liability in favor of the owner of property that has been  
26 taken or damaged through a public use or purpose and does not concern itself with  
27 the rights or liabilities of whom or what did the damage. It is a form of strict liability

<sup>1</sup> imposed on the party causing, or whose equipment caused, the damage." (*Id.* at 3.)

2       72.     Each VM Defendant's indemnity obligations to PG&E include, but are  
3 not limited to, the obligation to indemnify PG&E for its strict liability associated with  
4 inverse condemnation based on the Wildfires. This indemnification obligation, and  
5 other indemnification obligations of the VM Defendants, are within the Assigned  
6 Rights and Causes of Action assigned to the Trust.

7       73. As part of its Plan, PG&E agreed to settle its wildfire liabilities,  
8 including but not limited to inverse condemnation liabilities, to injured third parties,  
9 for a total of \$25.5 billion, of which \$13.5 billion was allocated for wildfire victims,  
10 \$11 billion was allocated for the subrogated insurers of wildfire victims, and \$1  
11 billion was allocated to certain public entities.

74. The \$13.5 billion allocated to wildfire victims was distributed to the  
Trust for individual allocation to wildfire victims through a claims-handling process.

14        75. On July 1, 2020, the assignment of the Assigned Rights and Causes of  
15 Action to the Trust became effective under the Plan.

16        76. Each VM Defendant has failed to indemnify PG&E for the damage  
17 caused by the Wildfires.

18        77.      Claims to recover for each VM Defendant's failure to add PG&E as an  
19 Additional Insured under its general liability policies as required under each VM  
20 Defendant's contracts with PG&E, are within the Assigned Rights and Causes of  
21 Action assigned to the Trust.

## CAUSES OF ACTION

## **FIRST CAUSE OF ACTION**

24 For Breach of Contract – Performance and Express Contractual Indemnity  
25 (Against All VM Defendants)

26        78. The Trustee incorporates by reference, as though set forth in full herein,  
27 paragraphs 1 through 77 of this Complaint.

1        79.    Each VM Defendant and PG&E entered into a series of written  
2 contracts in the form of MSAs and CWAs, as herein alleged.

3        80.    PG&E performed all, or substantially all, of the significant conditions,  
4 covenants, promises, and duties to be performed by it under its contracts with the  
5 VM Defendants, or such obligations have been excused.

6        81.    All of the conditions that were required for each VM Defendant to  
7 perform under its respective contracts with PG&E have been satisfied and occurred.

8        82.    A material term of each contract with the VM Defendants was that they  
9 would perform vegetation management work to identify, remove or trim vegetation  
10 within striking distance of PG&E's transmission and distribution lines pursuant to  
11 regulatory and industry standards to prevent vegetation from coming into contact  
12 with, or other damaging, PG&E equipment, especially during high wind events. VM  
13 Defendants were aware that improperly managed vegetation presented a significant  
14 risk of igniting wildfires.

15        83.    A material term of each contract with the VM Defendants was that they  
16 would perform vegetation management work to comply with regulatory requirements  
17 of vegetation utility line clearance, including but not limited to:

- 18            a.      pre-clearance inspection of PG&E transmission and distribution  
19                          lines to identify vegetation needing trimming, pruning or  
20                          removal,
- 21            b.      timely clearance of vegetation in close proximity to PG&E  
22                          transmission and distribution lines identified as needing  
23                          trimming, pruning or removal,
- 24            c.      proper training of employees to recognize hazardous and  
25                          dangerous trees and vegetation in close proximity to PG&E  
26                          transmission and distribution lines, and
- 27            d.      compliance with vegetation management laws and regulations.

1       84. An express or implied term of each contract with the VM Defendants  
2 was that they would provide competent vegetation management services to PG&E,  
3 pursuant to its contractual obligations, so as to identify and mitigate vegetation that  
4 posed a risk to PG&E lines, in compliance with the applicable statutes, regulations,  
5 and standards.

6       85. The Wildfires were a direct, proximate, and legal result of each VM  
7 Defendant's breach of the express and implied terms of its contracts with PG&E by  
8 failing to perform vegetation management services with diligence and reasonable  
9 care.

10      86. Each VM Defendant further failed to provide competent vegetation  
11 management services to PG&E, pursuant to its contractual obligations to ensure the  
12 proper maintenance and safe operation of PG&E's electrical equipment in compliance  
13 with the applicable statutes, regulations and standards, resulting in the Wildfires.

14      87. Each VM Defendant's breaches under its respective contracts also  
15 include failure to trim, prune or remove trees and other vegetation that posed a risk  
16 of starting a fire by coming into contact or damaging PG&E's transmission or  
17 distribution lines. Defendants further failed to institute or recommend increasing the  
18 frequency and quality of inspections and line clearance as part of PG&E's VM  
19 Program. VM Defendants' failures resulted in the Wildfires.

20      88. As a result of each VM Defendant's failure to perform its express and  
21 implied contractual duties, PG&E has suffered damages, including incurring liability  
22 for personal injury, wrongful death, and property damage caused by the Wildfires.  
23 PG&E's liabilities arose from claims against it based on general negligence in the  
24 management of the electrical infrastructure, negligent violations of law, strict  
25 liability imposed by law, including inverse condemnation, damages incurred by  
26 subrogated insurers who covered claims made by wildfire victims, and damages  
27 sustained by certain public entities.

1       89. Pursuant to the Plan, on the Effective Date, PG&E settled its liability  
2 from the Wildfires to such individuals and entities by, among other things, funding  
3 and committing to fund the Fire Victim Trust.

4       90. Each VM Defendant, pursuant to its contracts with PG&E, is required  
5 to indemnify PG&E for liability for personal injury and wrongful death claims, as  
6 well as all personal damage actions against PG&E arising from each VM Defendant's  
7 activity "connected in any way" to their vegetation management services and  
8 performance under the contracts.

9       91. PG&E, pursuant to the Plan, assigned to the Fire Victim Trust the right  
10 to recover from each VM Defendant its indemnity obligations to PG&E.

11       92. Additionally, each VM Defendant had a contractual duty to PG&E to  
12 protect PG&E's electrical equipment from contact with or damage from trees and  
13 other vegetation by taking due care to competently identify and remove or remediate  
14 hazardous vegetation next to PG&E's lines.

15       93. Each VM Defendant reasonably could have foreseen that its failure to  
16 meet its duties under its contracts would result in wildfires that would destroy  
17 PG&E's electrical equipment, which occurred and caused PG&E to suffer damages.

18       94. As a result of each VM Defendant's breach of its contractual duties,  
19 PG&E suffered damages in an amount to be proven at trial.

20       95. PG&E, pursuant to the Plan, assigned to the Fire Victim Trust the right  
21 to recover damages from the VM Defendants, for the benefit of the victims of the  
22 Wildfires, all damages suffered by PG&E based on the VM Defendant Consultants'  
23 above-described breaches of their contractual duties, including their contractual  
24 obligations to indemnify PG&E.

25       ////

26       ////

27       ////

28

LAW OFFICES OF  
WALKUP, MELODIA, KELLY  
& SCHOENBERGER  
A PROFESSIONAL CORPORATION  
650 CALIFORNIA STREET  
26TH FLOOR  
SAN FRANCISCO, CA 94108  
(415) 981-7222

**SECOND CAUSE OF ACTION**  
**For Breach of Contract - Insurance**  
**(Against All VM Defendants)**

96. The Trustee incorporates by reference, as though set forth in full herein, paragraphs 1 through 95 of this Complaint.

6        97. Each of the contracts between the VM Defendants and PG&E required  
7 that each VM Defendant maintain insurance coverage, including Commercial  
8 General Liability insurance with specified minimum coverage limits, and that VM  
9 Defendants add PG&E as an "Additional Insured" to their respective Commercial  
10 General Liability policies.

11        98. On information and belief, each VM Defendant breached its contracts by  
12 failing to ensure that PG&E was added as an “Additional Insured” to VM  
13 Defendants’ respective Commercial General Liability policies.

14        99. On information and belief, PG&E timely tendered an indemnity demand  
15 to each VM Defendant's general liability insurers and demanded that they indemnify  
16 PG&E as an additional insured under the general liability policies.

17        100. None of the VM Defendants' insurers have paid any portion of the  
18 damages that PG&E has incurred. Consequently, PG&E has been deprived of the  
19 insurance coverage that each VM Defendant was obligated to provide under its  
20 contracts.

21 101. Because VM Defendants' insurance carriers have failed or refused to  
22 indemnify PG&E pursuant to an additional insured endorsement, each VM  
23 Defendant is obligated to stand in the place of its insurers and indemnify PG&E.  
24 Each VM Defendant breached its duty by failing to indemnify PG&E for any portion  
25 of the damages that PG&E incurred in settling the Wildfire claims and funding the  
26 Trust.

27 102. The Trust's damages include the amounts that PG&E would have

1 received under the VM Defendants' insurance policies for indemnity with respect to  
2 the litigation arising out of the Wildfires had the VM Defendants' general liability  
3 policy insurers acknowledged PG&E as an Additional Insured and performed the  
4 duties they owed to PG&E as an Additional Insured.

5        103. Given that VM Defendants stand in the place of their insurers, the  
6 Trust is entitled to an award of attorneys' fees and punitive damages pursuant to the  
7 contract with PG&E.

### **THIRD CAUSE OF ACTION**

**For Breach of Implied Covenant of Good Faith and Fair Dealing  
(Against All VM Defendants)**

11       104. The Trustee incorporates by reference, as though set forth in full herein,  
12 paragraphs 1 through 103 of this Complaint.

13        105. Each VM Defendant and PG&E entered into written contracts in the  
14 form of MSAs and CWAs, as herein alleged.

15        106. PG&E performed all of the conditions required of it under the contracts  
16 with each VM Defendants.

17        107. All of the conditions required for each VM Defendant to perform under  
18 the contract had occurred.

19        108. In each PG&E contract with each VM Defendant, California law implies  
20 a covenant of good faith and fair dealing, pursuant to which neither party may take  
21 or fail to take action that would deprive the other party of the intended benefits of  
22 the contract. In this case, the Defendant Consultants impliedly covenanted that in  
23 performing vegetation management services each VM Defendant would focus its  
24 efforts on the overall safety of the electrical system, and that all work on aspects of  
25 the system would be in the context of overall planning for safety. PG&E had a right  
26 under each such contract to receive the benefit of the most experienced and qualified  
27 expertise on vegetation management services, which is what VM Defendants

1 | purported to be selling, to mitigate its own risk and exposure and protect the safety  
2 | of Californians.

3        109. Each VM Defendant breached the implied covenant of good faith and  
4 fair dealing when it stalled or otherwise delayed critical vegetation clearance work  
5 without examining the overall impact that its delay would have on the risk of  
6 vegetation-caused electrical grid fires. Each VM Defendant failed to execute its  
7 vegetation management services such that it was capable of keeping up with the  
8 amount of vegetation management work needed for PG&E to safely operate the grid,  
9 thereby denying PG&E of the expertise for which it had bargained.

10        110. By reason of the VM Defendants' breach of the implied covenant of good  
11 faith and fair dealing, PG&E suffered damages. PG&E has assigned to the Trust the  
12 right to recover these damages for the benefit of the victims of the Wildfires.

## **FOURTH CAUSE OF ACTION**

## **For Equitable Indemnity (Comparative Fault Between and Among Tortfeasors)**

19        112. As alleged herein, VM Defendants were negligent in the provision of  
20 their vegetation management services to PG&E.

21        113. The negligent conduct of each VM Defendant was a substantial factor in  
22 causing PG&E's equipment to ignite the Wildfires, which resulted in damage to life  
23 and property and caused PG&E to incur billions of dollars in liability in funding the  
24 Plan. PG&E has assigned to the Trust the right to recover these damages for the  
25 benefit of the victims of the Wildfires.

26        114. Equity requires that each VM Defendant pay a proportionate share of  
27 damages corresponding to its percentage of responsibility.

**FIFTH CAUSE OF ACTION**  
**For Negligence**  
**(Against All VM Defendants)**

115. The Trustee incorporates by reference, as though set forth in full herein, paragraphs 1 through 114 of this Complaint.

116. Each VM Defendant entered into contracts with PG&E, whereby each voluntarily and deliberately undertook the duty to act competently to identify and correct unsafe vegetation conditions, so as to ensure the proper maintenance and safe operation of PG&E's electrical system in compliance with the applicable statutes, regulations, and standards.

117. It was reasonably foreseeable that each VM Defendant's vegetation management services would directly impact Californians who required protection from deadly and devastating wildfires caused by vegetation hitting PG&E's electrical equipment during high wind events. Accordingly, each VM Defendant assumed a duty of care to both PG&E and to the foreseeable victims of wildfires caused by vegetation coming into contact with or otherwise damaging PG&E's electrical infrastructure.

18        118. Each VM Defendant breached its duty by failing to use reasonable care  
19 in the vegetation management work it performed, including by failing to identify,  
20 clear or mitigate vegetation issues that presented a significant risk of igniting  
21 wildfires. Specifically, each VM Defendant breached its duties by failing to (1) inspect  
22 trees and other vegetation so as to ensure compliance with the applicable statutes,  
23 regulations and standards; (2) timely and properly trim and remove vegetation; (3)  
24 properly identify trees and other vegetation that posed a threat to PG&E's electrical  
25 lines; and (4) train their employees to recognize hazardous and dangerous trees and  
26 other vegetation. Each VM Defendant also breached its duties by participating in a  
27 program that offered incentives to its employees for reducing the number of trees and

1 other plants that they marked trimming, removal, or other vegetation management  
2 work.

3        119. Each VM Defendant further breached its duty by failing to use  
4 reasonable care to identify and correct unsafe conditions to ensure the proper  
5 maintenance and safe operation of PG&E's electrical equipment in compliance with  
6 the applicable statutes, regulations, and standards, including with respect to the  
7 dangerous conditions that caused the Wildfires.

8        120. As a result of VM Defendants' negligence in rendering vegetation  
9 management services, Santa Ana winds caused various trees to come into contact  
10 with PG&E electrical lines, which resulted in the Wildfires.

11        121. The negligence of each VM Defendant was a substantial contributing  
12 cause of the Wildfires, resulting in catastrophic loss of life and property.

13        122. As a result of each VM Defendant's negligence, PG&E incurred liability  
14 for personal injury, wrongful death, and property damage caused by the Wildfires.  
15 PG&E's liabilities arose from claims against it based on general negligence in the  
16 management of the electrical infrastructure, negligent violations of law, strict  
17 liability imposed by law, including inverse condemnation, and damages incurred by  
18 subrogated insurers who covered claims made by wildfire victims, and damages  
19 suffered by certain public entities.

20        123. PG&E settled its liability to such individuals and entities as part of the  
21 Plan, thereby suffering damages. In addition, PG&E suffered damages to its  
22 equipment resulting from the Wildfires. Under the Plan, PG&E assigned to the Trust  
23 the right to recover these damages as alleged in this Complaint.

## **SIXTH CAUSE OF ACTION**

## **For Professional Negligence (Against All VM Defendants)**

27 124. The Trustee incorporates by reference, as though set forth in full herein,

1 paragraphs 1 through 123 of this Complaint.

2        125. Each VM Defendant represented to PG&E that it was a professional  
3 expert vegetation management with specialized training and expert skill in  
4 identifying and trimming and removing dangerous vegetation in close proximity to  
5 utility infrastructure.

6        126. Each VM Defendant owed a duty to PG&E, as well as to reasonably  
7 foreseeable fire victims of a PG&E-caused wildfire, to exercise the skill and care that  
8 a skilled professional would use in the work performed for PG&E.

9       127. By reason of the foregoing, each VM Defendant breached its professional  
10 duty of care, and failed to exercise the level of skill, care, and diligence that a  
11 reasonable professional would exercise to assist PG&E to prevent wildfires resulting  
12 from its electrical infrastructure.

13        128. Each VM Defendant failed to perform its services for PG&E in accord  
14 with professional standards of care and their acts and omissions were a substantial  
15 contributing cause of the Wildfires and resulting damages, as alleged herein. Under  
16 the Plan, PG&E has assigned to the Trust the right to recover these damages from  
17 each VM Defendant for the benefit of the victims of the Wildfires.

## **SEVENTH CAUSE OF ACTION**

## **Unjust Enrichment**

(Davey Resource Group, Inc., Davey Tree Expert Company; Davey Tree  
Surgery Company; The Original Mowbrays Tree Service Inc.; Western  
Environmental Consultants, Inc.; and Does 1 through 25)

23        129. The Trustee incorporates by reference, as though set forth in full herein,  
24 paragraphs 1 through 128 of this Complaint.

25        130. Each Defendant failed to provide competent services to PG&E,  
26 breaching to its contractual obligations, so as to ensure operation of PG&E's  
27 electrical equipment in compliance with the applicable statutes, regulations and

1 standards, thereby causing the Wildfires.

181. As a result of each Defendant's failures, PG&E suffered damages as  
alleged herein.

132. Nevertheless, and despite their failures to perform its obligations and  
duties to prevent PG&E equipment from causing wildfires, Defendants received  
substantial sums from PG&E for 'emergency' work authorized in the aftermath of the  
2017 fires.

8        133. Accordingly, each Defendant was unjustly enriched at PG&E's expense  
9 because each received the financial benefit of being awarded contracts with PG&E to  
10 perform additional vegetation management work under higher rates, and on  
11 information and belief, to perform work that should have already been performed  
12 under non-emergency vegetation management contracts.

## PRAYER FOR RELIEF

14 Wherefore, Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim  
15 Trust, prays for judgment against each VM Defendant as follows:

- a. For damages according to proof at trial;
- b. For complete or partial indemnity for the obligations and damages incurred and Assigned to the Trustee;
- c. For pre-judgment interest;
- d. For attorney's fees and punitive damages according to Defendants' contracts with PG&E;
- e. For attorneys' fees, expert fees, consultant fees, and other litigation expenses, as permitted by law;
- f. For costs of suit herein;
- g. For such other and further relief as the Court may deem just and proper.



1 Dated: January 28, 2021

GREENBERG GROSS LLP

3 By: /s/ Alan A. Greenberg

4 ALAN A. GREENBERG  
5 WAYNE R. GROSS  
6 EVAN C. BORGES  
7 601 South Figueroa Street, 30<sup>th</sup> Floor  
8 Los Angeles, California 90017  
9 Tel: (213) 334-7000  
Fax: (213) 334-7001  
[AGreenberg@GGTrialLaw.com](mailto:AGreenberg@GGTrialLaw.com)  
[WGross@GGTrialLaw.com](mailto:WGross@GGTrialLaw.com)  
[EBorges@GGTrialLaw.com](mailto:EBorges@GGTrialLaw.com)

10 Dated: January 28, 2021

COTCHETT PITRE & McCARTHY

13 By: /s/ Frank M. Pitre

14 FRANK M. PITRE  
15 San Francisco Airport Office Center  
16 840 Malcolm Road, Suite 200  
17 Burlingame, CA 94010  
Tel: (650) 697-6000  
Fax: (650) 697-0577  
[fpitre@cpmlegal.com](mailto:fpitre@cpmlegal.com)

18 Dated: January 28, 2021

DREYER, BABICH, BUCCOLA, WOOD, CAMPORA

21 By: /s/ Steven M. Campora

22 STEVEN M. CAMPORA  
23 20 Bicentennial Circle  
24 Sacramento, CA 95826  
25 Tel: (916) 379-3500  
Fax: (916) 379-3599  
[scampora@dbbw.com](mailto:scampora@dbbw.com)

26 Attorneys for Plaintiff John K. Trotter,  
Jr., Trustee of the PG&E Fire Victim  
Trust

27 (additional counsel listed on following  
28 pages)

1 Dated: January 28, 2021

COREY, LUZAICH, DE GHETALDI & RIDDLE, LLP

2  
3  
4 By: /s/ Dario de Ghetaldi

5 DARIO de GHETALDI  
6 700 El Camino Real  
7 PO Box 669  
8 Millbrae, CA 94030  
Tel: (650) 871-5666  
Fax: (650) 871-4144  
deg@coreylaw.com

9 Attorneys for Plaintiff John K. Trotter,  
10 Jr., Trustee of the PG&E Fire Victim  
11 Trust

12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

28  
LAW OFFICES OF  
WALKUP, MELODIA, KELLY  
& SCHOENBERGER  
A PROFESSIONAL CORPORATION  
650 CALIFORNIA STREET  
26TH FLOOR  
SAN FRANCISCO, CALIFORNIA  
(415) 981-7210

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Michael A. Kelly/Khaldoun A. E Walkup, Melodia, Kelly & Schoenberger 650 California Street, 26th Floor San Francisco, CA 94108 TELEPHONE NO. (415) 981-7210		Address (number, street, city, state, zip code): 1adi 71640/190111 FAX NO.: (415) 391-6965
ATTORNEY FOR (Name): Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust		

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civil-Unlimited	
CASE NAME: Trotter v. Davey Resource Group, Inc.; Davey Tree Expert Company, Davey Tree Surgery Company, The Orginal Mowbrays Tree Service, Inc.; et al	

<b>CIVIL CASE COVER SHEET</b>		<b>Complex Case Designation</b>
<input checked="" type="checkbox"/> Unlimited <input type="checkbox"/> Limited (Amount demanded exceeds \$25,000)      (Amount demanded is \$25,000 or less)		<input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		JUDGE:
		DEPT.:

**FOR COURT USE ONLY**

**F I L E D**  
Superior Court of California  
County of San Francisco

JAN 28 2021

CLERK OF THE COURT  
*[Signature]*  
BY: *[Signature]* Deputy Clerk

CASE NUMBER: 21-589438

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input checked="" type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	Enforcement of Judgment <input type="checkbox"/> Enforcement of Judgment (20)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)		

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a.  Large number of separately represented parties
- b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c.  Substantial amount of documentary evidence
- d.  Large number of witnesses
- e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): Seven

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 28, 2021

Khaldoun A. Baghdadi

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties In Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties In Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

### CASE TYPES AND EXAMPLES

<b>Auto Tort</b>	<b>Contract</b>	<b>Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)</b>
Auto (22)-Personal Injury/Property Damage/Wrongful Death	Breach of Contract/Warranty (08) Breach of Rental/Lease Contract ( <i>not unlawful detainer or wrongful eviction</i> ) Contract/Warranty Breach-Seller Plaintiff ( <i>not fraud or negligence</i> ) Negligent Breach of Contract/Warranty	Antitrust/Trade Regulation (03) Construction Defect (10) Claims Involving Mass Tort (40) Securities Litigation (28) Environmental/Toxic Tort (30) Insurance Coverage Claims ( <i>arising from provisionally complex case type listed above</i> ) (41)
Uninsured Motorist (46) ( <i>If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto</i> )	Other Breach of Contract/Warranty Collections (e.g., money owed, open book accounts) (09) Collection Case-Seller Plaintiff Other Promissory Note/Collections Case	<b>Enforcement of Judgment</b> Enforcement of Judgment (20) Abstract of Judgment (Out of County) Confession of Judgment ( <i>non-domestic relations</i> ) Sister State Judgment Administrative Agency Award ( <i>not unpaid taxes</i> ) Petition/Certification of Entry of Judgment on Unpaid Taxes Other Enforcement of Judgment Case
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort	Insurance Coverage ( <i>not provisionally complex</i> ) (18) Auto Subrogation Other Coverage	<b>Miscellaneous Civil Complaint</b> RICO (27) Other Complaint ( <i>not specified above</i> ) (42) Declaratory Relief Only Injunctive Relief Only ( <i>non-harassment</i> ) Mechanics Lien Other Commercial Complaint Case ( <i>non-tort/non-complex</i> ) Other Civil Complaint ( <i>non-tort/non-complex</i> )
Asbestos (04) Asbestos Property Damage Asbestos Personal Injury/ Wrongful Death	Other Contract (37) Contractual Fraud Other Contract Dispute	<b>Miscellaneous Civil Petition</b> Partnership and Corporate Governance (21) Other Petition ( <i>not specified above</i> ) (43) Civil Harassment Workplace Violence Elder/Dependent Adult Abuse Election Contest Petition for Name Change Petition for Relief from Late Claim Other Civil Petition
Product Liability ( <i>not asbestos or toxic/environmental</i> ) (24)	Real Property	
Medical Malpractice (45) Medical Malpractice- Physicians & Surgeons	Eminent Domain/inverse Condemnation (14) Wrongful Eviction (33) Other Real Property (e.g., quiet title) (26) Writ of Possession of Real Property Mortgage Foreclosure Quiet Title Other Real Property ( <i>not eminent domain, landlord/tenant, or foreclosure</i> )	
Other Professional Health Care Malpractice	Unlawful Detainer	
Other PI/PD/WD (23)	Commercial (31) Residential (32) Drugs (38) ( <i>If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential</i> )	
Premises Liability (e.g., slip and fall)	Judicial Review	
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)	Asset Forfeiture (05) Petition Re: Arbitration Award (11) Writ of Mandate (02)	
Intentional Infliction of Emotional Distress	Writ-Administrative Mandamus Writ-Mandamus on Limited Court Case Case Matter Writ-Other Limited Court Case Review	
Negligent Infliction of Emotional Distress	Other Judicial Review (39) Review of Health Officer Order Notice of Appeal-Labor Commissioner Appeals	
Other PI/PD/WD		
<b>Non-PI/PD/WD (Other) Tort</b>		
Business Tort/Unfair Business Practice (07)		
Civil Rights (e.g., discrimination, false arrest) ( <i>not civil harassment</i> ) (08)		
Defamation (e.g., slander, libel) (13)		
Fraud (16)		
Intellectual Property (19)		
Professional Negligence (25) Legal Malpractice		
Other Professional Malpractice ( <i>not medical or legal</i> )		
Other Non-PI/PD/WD Tort (35)		
<b>Employment</b>		
Wrongful Termination (36)		
Other Employment (15)		

# EXHIBIT C

1 MICHAEL A. KELLY (State Bar #71460)  
mkelley@walkuplawoffice.com  
2 KHALDOUN A. BAGHDADI (State Bar #190111)  
kbaghdadi@walkuplawoffice.com  
3 WALKUP, MELODIA, KELLY  
& SCHOENBERGER  
4 650 California Street, 26th Floor  
San Francisco, CA 94108  
Telephone: (415) 981-7210  
5 Facsimile: (415) 391-6965

6 ANNE ANDREWS (Bar No. 103280)  
aandrews@andrewsthornton.com  
7 JOHN C. THORNTON (Bar No. 84492)  
jct@andrewsthornton.com  
8 SEAN T. HIGGINS (Bar No. 266888)  
shiggins@andrewsthornton.com  
9 ROBERT S. SIKO (Bar No. 312856)  
rsiko@andrewsthornton.com  
10 ANDREWS & THORNTON  
4701 Von Karman Ave, Suite 300  
11 Newport Beach, California 92660  
Telephone: (949) 748-1000  
12 Facsimile: (949) 315-3540

13 (ADDITIONAL COUNSEL LISTED ON SIGNATURE PAGES)

14 ATTORNEYS FOR PLAINTIFF JOHN K. TROTTER,  
JR., TRUSTEE OF THE PG&E FIRE VICTIM TRUST  
15

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 COUNTY OF SAN FRANCISCO

18  
19 JOHN K. TROTTER, JR., Trustee of the  
PG&E Fire Victim Trust,  
20

Plaintiff,

21  
22 v.  
23 DAVEY RESOURCE GROUP, INC.;  
DAVEY TREE EXPERT COMPANY;  
24 DAVEY TREE SURGERY COMPANY;  
and DOES 1 through 25, inclusive,  
25

Defendants.

Case No. C - 21 - 589439

COMPLAINT FOR DAMAGES

- 1) Breach of Contract (Performance and Express Contractual Indemnity)
- 2) Breach of Contract (Insurance)
- 3) Breach of Implied Duty of Good Faith and Fair Dealing
- 4) Equitable Indemnity
- 5) Negligence
- 6) Professional Negligence
- 7) Unjust Enrichment

JURY TRIAL DEMANDED

F I L E D  
Superior Court of California  
County of San Francisco

JAN 28 2021

COURT CLERK'S OFFICE  
*[Signature]*  
Deputy Clerk

1 Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust (the  
2 "Trustee" or "Plaintiff"), brings this action against Defendants Davey Resource  
3 Group, Inc., Davey Tree Expert Company, and Davey Tree Surgery Company,  
4 (hereinafter collectively referred to as "VM Defendants" or "Defendants") as follows:

5 **NATURE OF THE ACTION**

6 1. Prior to 2020, Pacific Gas & Electric Company ("PG&E")<sup>1</sup> owned and  
7 operated a power grid and electrical system, which was the cause of several  
8 catastrophic wildfires, including: the Butte Fire on September 9, 2015, the Adobe,  
9 Atlas, Norrbom, Nuns, Partrick, Pocket, Point, Potter/Redwood, Sulphur, and Tubbs  
10 Fires on October 8 and 9, 2017<sup>2</sup>, and the Camp Fire on November 8, 2018  
11 (collectively, the "Wildfires"). Each of these fires started because of separate and  
12 distinct failures to observe due care, as well as the failure to fulfill statutory and  
13 contractual obligations on the part of the defendants named herein.

14 2. On January 29, 2019, PG&E filed a voluntary Chapter 11 bankruptcy  
15 petition in the United States Bankruptcy Court for the Northern District of  
16 California, as a result of PG&E's substantial and overwhelming liabilities associated  
17 with the 2015, 2017, and 2018 Wildfires caused by its electrical equipment. (*In re*  
18 *PG&E Corp.* (Bankr. N.D. Cal.) Case No. 19-30088, Docket Entry Nos. 7711 and  
19 8053.) After notice to all interested parties, the Bankruptcy Court confirmed a  
20 bankruptcy plan binding on PG&E, its creditors, and all parties in interest, including  
21 the victims of the Wildfires (the "Plan"), as of the Effective Date. (*In re PG&E, supra*,  
22 Docket Entry No. 8053.)

23 3. The Plan provided, among other things, for the creation of the Fire

24 \_\_\_\_\_  
25 <sup>1</sup> As used herein, "PG&E" refers to the former Pacific Gas & Electric Company as it  
existed prior to the effective date of its Chapter 11 bankruptcy plan of July 1, 2020  
(the "Effective Date"), and not the newly emerged Pacific Gas & Electric Company.

26  
27 <sup>2</sup> The Oakmont/Pythian Fire started on or about October 13, 2017. For ease of  
reference to the firestorm commonly referred to as the "North Bay Fires", this  
Complaint will refer to October 8 and 9, 2017 as the ignition dates.

1      Victim Trust. *Id.* Pursuant to the Plan, by operation of federal law, PG&E assigned  
2      to the Trust certain rights, claims, and causes of action (the “Assigned Rights and  
3      Causes of Action”). The Assigned Rights and Causes of Action include “any and all  
4      rights, claims, causes of action, and defenses related thereto relating directly or  
5      indirectly to any of the prepetition Fires that the Debtors may have against vendors,  
6      suppliers, third party contractors and consultants (including those who provided  
7      services, directly or indirectly, regarding the Debtors’ electrical system, system  
8      equipment, inspection and maintenance of the system, and vegetation  
9      management).” (*In re PG&E, supra*, Docket Entry No. 7712-1 at 1.) The claims  
10     pursued by the Trustee in this Complaint are within the Assigned Rights and Causes  
11     of Action.)

12        4.      The Trust was established for two overall purposes: (1) to provide  
13      compensation to victims of the Wildfires based on a claims-administration process;  
14      and (2) to recover additional funds for the benefit of victims of the Wildfires,  
15      including by bringing the Assigned Rights and Causes of Action on behalf of PG&E  
16      against other responsible parties. This Complaint is an asset recovery action against  
17      responsible third parties brought for the benefit of the victims of the Wildfires.

18        5.      Each VM Defendant contributed to PG&E’s failure to mitigate the risk  
19      of wildfires through PG&E’s systems for evaluating, inspecting and clearing trees  
20      and vegetation overgrowth, as well as other vegetation hazards such as disease and  
21      decay, in proximity to PG&E transmission and distribution lines, as necessary to  
22      comply with California regulations regarding management of vegetation along utility  
23      power lines. Each VM Defendant entered into lucrative contracts with PG&E to  
24      implement its vegetation management programs, practices, policies, and procedures  
25      (PG&E’s “VM Program”). In those contracts, each VM Defendant promised PG&E  
26      that it would perform VM Program services to reduce the risk of wildfire caused by  
27      vegetation issues and otherwise assist PG&E in complying with its regulatory duties.

28

1 Each VM Defendant thereby joined PG&E in the solemn duty to prevent the deadly  
2 and catastrophic wildfires that could be caused by PG&E equipment.

3        6. During the relevant time period, each VM Defendant participated in,  
4 implemented and executed PG&E's VM Program.

5        7. All VM Defendants held themselves out as fully capable to advise  
6 regarding, if not experts in, evaluating and managing trees and other vegetation  
7 that, due to their proximity to power transmission and distribution lines, pose a risk  
8 of damaging utility lines and causing fires. Each VM Defendant subsequently failed  
9 to perform or negligently performed their duties. In addition to PG&E itself, the  
10 known and foreseeable victim of wildfires, who would be injured and damaged by VM  
11 Defendants' breach of their duties, were California residents and businesses in the  
12 area of the PG&E electrical grid in Northern California. The VM Defendants' acts  
13 and omissions were substantial causes of the Wildfires.

14        8.      The failures that caused the Wildfires arose from the combined conduct  
15 of PG&E and VM Defendants, each of whom failed in their essential roles in reducing  
16 the risk of fires caused by vegetation.

17        9.      In the aftermath of the Wildfires, California regulatory officials  
18 uncovered PG&E practices permitting dangerous conditions, which caused the  
19 individual Wildfires, to go uncorrected. In particular, California regulatory officials  
20 found that PG&E failed to abide by legal safety requirements for managing  
21 vegetation near its power lines. These substandard, negligent and dangerous  
22 practices were contributed to, caused, and/or exacerbated by VM Defendants'  
23 breaches of their contractual duties and duties of care with respect to PG&E's VM  
24 Programs.

## **GENERAL ALLEGATIONS**

#### A. The Parties

27 10. Plaintiff Trustee of the PG&E Fire Victim Trust. Plaintiff John K.

1 Trotter, Jr. is the duly appointed Trustee of the PG&E Fire Victim Trust (the "Fire  
2 Victim Trust" or the "Trust"), which was established pursuant to the Plan. The  
3 Trustee is a resident of the State of California. The Trust is a Delaware statutory  
4 trust.

5       11. The Plan resulted in the creation of the Trust. Case No. 19-30088, D.E.  
6 8053. The Trust was established to administer individual victims' claims against  
7 PG&E related to the Wildfires, which were caused by PG&E's electrical equipment.

8       12. Defendant Davey Resource Group, Inc. Davey Resource Group, Inc.,  
9 ("Davey Resource") is a corporation organized and existing under the laws of  
10 Delaware with its principal place of business in Kent, Ohio. At all relevant times,  
11 Davey Resource has been licensed to do business in and actually conducted business  
12 in the State of California. Davey Resource is a professional services company offering  
13 a suite of vegetation management services for utility operations, including  
14 performance of pre-inspection duties for utilities' vegetation management programs,  
15 auditing or quality control of vegetation management work, creation of vegetation  
16 clearance work orders, and other related vegetation management work. In the course  
17 of said business, Davey Resource was hired by and performed vegetation  
18 management services for PG&E in the State of California as herein alleged. On  
19 information and belief, at a minimum, Davey Resource performed such services in  
20 connection with the Atlas, Partrick, Nuns, and Tubbs Fires, and may have performed  
21 vegetation management services in connection with additional separate fires.

22       13. Defendant Davey Tree Expert Company. Davey Tree Expert Company  
23 ("Davey Tree Expert") is a corporation organized and existing under the laws of Ohio  
24 with its principal place of business in Kent, Ohio. At all relevant times, Davey Tree  
25 Expert has been licensed to do business in and actually conducted business in the  
26 State of California. Davey Tree Expert is a professional services company offering a  
27 suite of vegetation management services for utility operations, including responding

1 to vegetation management work orders, performance of line clearance for vegetation  
2 issues, recording and logging clearance work performed, and, in the course of said  
3 business, was hired by and performed vegetation management services for PG&E in  
4 the State of California as herein alleged. On information and belief, at a minimum,  
5 Davey Tree Expert performed such services in connection with the Adobe, Atlas,  
6 Norrbom, Nuns, Partrick, Tubbs, and Sulphur Fires, and may have performed  
7 vegetation management services in connection with additional separate fires.

8       14.    Defendant Davey Tree Surgery Company. Davey Tree Surgery Company  
9 ("Davey Tree Surgery") is a corporation organized and existing under the laws of  
10 Delaware with its principal place of business in Kent, Ohio. At all relevant times,  
11 Davey Tree Surgery has been licensed to do business in and actually conducted  
12 business in the State of California. Davey Tree Surgery is a professional services  
13 company offering a suite of vegetation management services for utility operations,  
14 including responding to vegetation management work orders, performance of line  
15 clearance for vegetation issues, recording and logging clearance work performed, and,  
16 in the course of said business, was hired by and performed vegetation management  
17 services for PG&E in the State of California as herein alleged. On information and  
18 belief, at a minimum, Davey Tree Surgery performed such services in connection  
19 with the Adobe, Atlas, Norrbom, Nuns, Partrick, Tubbs, and Sulphur Fires, and may  
20 have performed vegetation management services in connection with additional  
21 separate fires.

22       15.    At all relevant times, each VM Defendant was a business entity doing  
23 business in the State of California. Each VM Defendant held itself out as an expert in  
24 one or more of (1) performance of pre-clearance line inspection for vegetation issues,  
25 (2) performance of line clearance of vegetation issues, or (3) auditing or quality  
26 control of vegetation management work. At all relevant times, each Defendant was  
27 hired by PG&E to perform services in connection with its VM Program, with such

1 services to be performed in California.

2       16. Each Defendant was a contractor, vendor, supplier, or third-party  
3 contractor of PG&E, as defined in the Plan. Thus, PG&E's claims against the  
4 Defendants are included in the Plan's Assigned Rights and Causes of Action. To the  
5 extent that one or more of the Defendants have been purchased by, merged into, or  
6 changed its form such that it is now owned and/or controlled by a successor, the  
7 Trustee asserts the claims asserted herein against such successors, and such  
8 successors are liable for the injuries and damages alleged herein. The Trust will seek  
9 leave to amend this Complaint to identify any such successors, once information  
10 regarding any successors is developed and/or confirmed.

11       17. The true names, capacities and basis for liability, whether individual,  
12 corporate, partnership, or otherwise, of Doe Defendants 1 through 25, and each of  
13 them, are unknown to the Trustee, who therefore sues said Defendants by such  
14 fictitious names. The Trustee is informed and believes that each Defendant  
15 designated herein as a Doe was in some manner legally responsible for the events,  
16 acts, omissions, and damages alleged herein. Any reference herein to the Defendant  
17 Consultants includes Doe Defendants 1 through 25, inclusive.

18           **B. Jurisdiction and Venue**

19       18. This Court has personal jurisdiction over VM Defendants because this  
20 suit arises from the Wildfires, which occurred in California, caused damage to PG&E  
21 in California, and was caused by Defendants' services performed pursuant to  
22 contracts entered in San Francisco County. Each Defendant is qualified to do  
23 business in the State of California.

24       19. Pursuant to California Code of Civil Procedure § 395(a), venue is proper  
25 in this Court as the agreements that provide a basis for liability herein were entered  
26 into in the County of San Francisco, State of California.

27       20. The allegations contained and remedies sought herein share common

1 questions of law and fact such that they should be coordinated or otherwise added on  
2 to JCCP 4955, In Re California North Bay Fire Cases.

3           C.     Factual Allegations

4            1.     PG&E's VM Programs

5           21.    PG&E is a utility company that supplies electrical power by way of  
6 overhead conductors throughout California, from Humboldt County to Santa Barbara  
7 County. PG&E has identified wildfires caused by its electrical equipment as a top  
8 safety and enterprise risk.

9           22.    To protect against the risk of wildfires caused by its electrical  
10 equipment, PG&E utilized its VM Program. The policies, processes, procedures, and  
11 practices of PG&E's VM Program are designed to comply with the regulations of the  
12 California Public Utility Commission ("CPUC") and the California Department of  
13 Forestry and Fire Protection ("CAL FIRE"), as well as other relevant laws, statutes  
14 and regulations.

15          23.    Through its VM Program, PG&E monitors approximately 100,000 miles  
16 of high-voltage overhead lines across a 70,000-square mile service area. Within that  
17 service area, PG&E is responsible for monitoring approximately 120 million trees  
18 that have the potential to grow close to, or fall on, overhead lines.

19          24.    During the relevant time period, PG&E's VM Program for its  
20 distribution lines included but was not limited to, Catastrophic Event Memorandum  
21 Account ("CEMA") patrols and Routine patrols. CEMA patrols were a system-wide  
22 program of patrolling PG&E's service area, to identify, prescribe, and document work  
23 to be conducted on hazardous trees that threatened PG&E's overhead lines. Routine  
24 patrols involved patrolling and conducting tree work along PG&E's high-voltage  
25 distribution lines to comply with CPUC General Order 95, Rule 35, and Public  
26 Resources Code sections 4292 and 4293.

27          25.    A CEMA patrol or Routine patrol consisted of pre-inspection, tree work,

1 and quality control analysis of the pre-inspection and tree work.

2       26. PG&E outsourced the entirety of these functions to third-party  
3 vendors—the VM Defendants—that specialized in pre-inspection, tree work, or  
4 quality control.

5       27. PG&E required onboarding or training to be completed by each VM  
6 Defendant. Pursuant to contracts between PG&E and the VM Defendants, it is each  
7 VM Defendant's responsibility to train its workforce.

8       28. Each year, PG&E spends several hundred million dollars on vegetation  
9 management. As part of the vegetation management planning process, PG&E  
10 determines annually the number of planned trees that need to be maintained, as well  
11 as the annual pre-inspection time. To ensure reliability, pre-inspection contractors  
12 are required to meet schedule attainment metrics for both CEMA and Routine  
13 patrols.

14       29. The pre-inspection process involves a contractor's pre-inspectors, also  
15 referred to as consulting utility foresters ("CUFs") or supervising consulting utility  
16 foresters ("SCUFs"), patrolling the lines listed in PG&E's project management  
17 database and looking for vegetation conditions that are potentially problematic for  
18 PG&E's overhead lines.

19       30. Under PG&E's Vegetation Management Improvement Initiative  
20 ("VMII"), pre-inspection contractors can earn an incentive if the actual number of  
21 trees identified for work is less than the pre-set target number.

22       31. On January 12, 2012, the CPUC issued Decision 12-01-032, which  
23 sought to reduce the risk of fire hazards associated with overhead power lines and  
24 communication facilities. The CPUC decision required a determination of the risk of  
25 catastrophic fires in the service territory of electrical utilities caused by their  
26 overhead electrical facilities and the preparation of a fire prevention plan with an

27

28

1 effective date of December 21, 2012<sup>3</sup>. In response to CPUC Decision 12-01-032, PG&E  
2 developed a companywide "Fire Prevention Plan."

3       32. PG&E has developed a number of wildfire safety plans since 2012. Each  
4 VM Defendant was hired by PG&E to be an integral part of its safety plans, and  
5 specifically the implementation and execution of VM Programs to improve safety,  
6 reduce the risk of tree failure into PG&E lines, and prevent wildfires.

7           **2. The Wildfires**

8           **(a) 2017 North Bay Fires**

9       33. On Sunday, October 8, 2017, tragedy struck communities across  
10 Northern California when a series of separate fires began to spark and spread. These  
11 deadly fires quickly spread through neighborhoods and destroyed everything in their  
12 path, including residences, vegetation, structures, and businesses.

13       34. The North Bay Fires are collectively some of the most destructive fires  
14 in California's history. In just a few weeks, the fires caused the deaths of at least 44  
15 people, hospitalized over 185 individuals, displaced about 100,000 people who were  
16 forced to leave their homes and search for safety, burned over 245,000 acres, and  
17 damaged or destroyed an estimated 14,700 homes, 3,600 vehicles, and 728  
18 businesses. A summary of the specific and distinct fires relevant to this action is as  
19 follows:

20           **(i) The Tubbs Fire**

21       35. The Tubbs fire started October 8, 2017, on real property located at 1128  
22 Bennett Lane, Calistoga, CA, when a tree that had not been properly identified for  
23 work, pruned and/or removed, came into contact with a PG&E distribution line at  
24 that location. The tree line contact caused the Tubbs Fire, which burned thousands of  
25 acres, burned thousands of homes and structures, and burned the facilities of PG&E.

26

27

---

28       3 [https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC\\_4167-E.pdf](https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC_4167-E.pdf)

1                   3. VM Defendants' Engagement

2         36. Prior to 2017, each VM Defendant entered into a written contract with  
3 PG&E that mandated the provision of vegetation management services. The specific  
4 content has been designated as "Confidential" or otherwise restricted from public  
5 disclosure in prior litigation involving these defendants. Plaintiff accordingly  
6 describes the general terms and obligations imposed by the agreements, all of which  
7 are in possession of the defendants.

8                   a. patrolling distribution and transmission lines to identify and  
9                   assess required tree work, including such hazardous trees or  
10                  portions of trees with the potential to fail and come into contact  
11                  with high voltage conductors, trees near power lines that could  
12                  interfere with PG&E lines, vegetation with the potential to grow  
13                  into the primary conductors before the next annual trim or which  
14                  is currently causing strain/abrasion of the secondary conductors,  
15                  or trees which will not hold minimum clearance,  
16                  b. mandates on the required timing of certification and training for  
17                  inspectors,  
18                  c. prescribing work to be performed,  
19                  d. entering work identified and prescription information into the  
20                  PG&E Vegetation Management Data Base (VMDB),  
21                  e. editing the data in VMDB and creating work request form(s), and  
22                  f. either undertaking to perform the work requested or assigning  
23                  the work to other PG&E contractors, as directed by PG&E.

24         Each VM Defendant is responsible for having a Quality Assurance Auditor to confirm  
25 contractual compliance. Such auditor is required to have specific educational or  
26 vocational training and experience. The essence of each VM Defendant's contract was  
27 to ensure the safe and reliable operation of all PG&E distribution lines in compliance

1 with state laws and regulations.

2       37. Additionally, each VM Defendant's contract contained a requirement  
3 that each respective VM Defendant indemnify and hold harmless PG&E from  
4 liability arising from personal injury, property injury/damage, violations of laws, or  
5 strict liability imposed by law that is connected in any way with each VM  
6 Defendant's performance of or failure to perform under the contract.

7       38. Additionally, each VM Defendant's contract also obligates it to defend  
8 any action, claim, or suit asserting a claim which might be covered by the above  
9 indemnity, as well as pay all costs and expenses that may be incurred by PG&E in  
10 enforcing the indemnity, including reasonable attorney's fees.

11       39. Each VM Defendant was aware that their contract required it to  
12 indemnify PG&E even for liability that was not the result of VM Defendant's  
13 negligence so long as the liability was in any way connected with Defendant's  
14 performance of or failure to perform under the contract.

15       40. Separate and apart from the indemnity provisions in the VM  
16 Defendants' contracts with PG&E, each VM Defendant's contract required Defendant  
17 to maintain insurance coverage, including Commercial General Liability insurance,  
18 for each occurrence where the VM Defendant's performance under the contract is an  
19 any way connected with fire-related liability. It also required each VM Defendant to  
20 add PG&E as an "Additional Insured" to its Commercial General Liability coverage  
21 requirement with respect to liability arising out of or connected with the work  
22 performed by or for each VM Defendant. Each contract did not specify or limit to  
23 what insurance policies PG&E was to be added as an Additional Insured; rather,  
24 PG&E was to be added as an Additional Insured on each policy covering an instance  
25 where each VM Defendant was required to maintain Commercial General Liability  
26 insurance. The Pre-Inspection Contract also required that each VM Defendant's  
27 insurance policies must specify that Defendant's insurance is primary and that any

1 insurance or self-insurance maintained by PG&E shall not contribute with it.

2       41.   Each VM Defendant's contract contains a provision stating that if it fails  
3 to add PG&E as an Additional Insured, it must stand in the shoes of its insurance  
4 carrier to the same extent as an insurer issuing ISO form occurrence coverage  
5 without coverage deletions. Failure to do so, results in further damages, including  
6 attorney's fees and punitive damages.

7       42.   As part of their contracts, VM Defendants were required to attain  
8 schedule requirements on a weekly basis to ensure that trees adjacent to or near  
9 PG&E's system lines are adequately inspected. During the term of the contract,  
10 however, Defendants continually and repeatedly fell behind their schedule  
11 attainment requirements, including leading up to the Wildfires, sometimes by as  
12 much as a year. In the North Bay Division alone, in October 2017, more than 3,000  
13 trees were two months behind VM Defendants' pre-inspection schedule.

14       43.   Moreover, in 2017, PG&E required its pre-inspection contractors,  
15 including VM Defendants, to identify 23 percent of the trees marked for treatment to  
16 be marked for removal. A removal designation served to both lower the risk of fire by  
17 protecting the electrical equipment and by diminishing the need for future tree work  
18 on trees with the potential to contact power lines. Yet VM Defendants routinely  
19 missed the removal threshold.

20       44.   At the time of the Wildfires, VM Defendants' pre-inspectors regularly  
21 discussed amongst themselves how far behind schedule Defendants were in  
22 complying with their contractual duties to inspect PG&E's power lines for hazardous  
23 trees.

24       45.   VM Defendants were aware that their pre-inspectors did not have  
25 adequate training to identify trees subject to the relevant contractual standards.

26       46.   VM Defendants were also aware that their pre-inspectors did not have  
27 the contractually-required educational background and/or credentials to comply with

1 the Pre-Inspection Contract. VM Defendants also knew those inspectors were not  
2 properly certified as required under the terms of the agreement.

3       47. VM Defendants were aware that their pre-inspectors did not know of or  
4 have the requisite knowledge to understand how to determine whether an inspection  
5 complied with requisite contractual and industry standards. Despite their awareness,  
6 VM Defendants did not test their pre-inspectors' knowledge of the relevant inspection  
7 and trimming standards. Nor did they ensure that their pre-inspectors read relevant  
8 materials designed to educate them about the relevant inspection and trimming  
9 standards.

10      48. VM Defendants were further aware that their pre-inspectors had rushed  
11 through their pre-inspection work when they fell behind their scheduled attainment  
12 requirements.

13      49. When VM Defendants fell behind schedule, their pre-inspectors would  
14 attempt to rush through their work in order to qualify for contractual financial  
15 incentives.

16      50. At all times herein alleged, and prior to the Wildfires, each VM  
17 Defendant, was aware that if they failed to perform their duties, as required under  
18 their agreements with PG&E, to the standard required of an expert in the industry,  
19 there was a significant risk of fire, damage to property owned by members of the  
20 general public, and the death to members of the general public. The VM Defendants  
21 failed to inspect the trees as required under the terms of the contract, specifically  
22 including, but not limited to, failing to inspect, prune, remove and identify trees as  
23 required by PG&E Vegetation Management program.

24      51. Specifically, each VM Defendant was aware of the significant wildfire  
25 risk posed by trees or other vegetation coming into contact with high voltage  
26 electrical transmission and distribution lines during high wind events in Northern  
27 California. More specifically, each VM Defendant was aware that prior to the

1 Wildfires, the State of California, and in particular the counties affected by the  
2 Wildfires, had been in a prolonged state of drought. VM Defendants, and each of  
3 them, knew or should have known that the drought conditions had existed for a  
4 number of years and that fire danger was at an extraordinarily high level. VM  
5 Defendants, and each them, as arborists and vegetation experts, were aware or  
6 should have been aware that, at the time of the Wildfires, there was an abundance of  
7 undergrowth and other fuels such that the risk of a catastrophic fire was high. Each  
8 VM Defendant was aware that there had been a long history of large-scale wildfires  
9 ignited during high winds, like the Santa Ana winds, causing trees to fall into PG&E  
10 electrical equipment, as well as other utilities' electrical equipment, across  
11 California.

12       52.     Each VM Defendant knew or should have known that the members of  
13 the public were at great risk if they failed to fulfill their duties and perform to the  
14 standard of an expert in the utility arborist industry. Each VM Defendant knew that  
15 if the lines came into contact with vegetation a fire would likely result and that,  
16 given the drought and other weather conditions such as the Santa Ana winds, the  
17 resulting fire could cause loss of life, personal injury, significant damage to real and  
18 personal property, and other damage to members of the general public. The risk of  
19 improperly trimmed or removed trees starting large-scale, costly, and deadly  
20 wildfires by failing during high wind events and hitting electrical equipment was  
21 well-documented and foreseeable to any reasonable company providing vegetation  
22 management services to a utility. As a result of this known danger, each VM  
23 Defendant had a heightened duty of care.

24       53.     Each VM Defendant held itself out as fully competent to perform and as  
25 a professional expert with sufficient expert skill, training, and knowledge to identify  
26 and trim or remove dangerous vegetation in close proximity to PG&E's infrastructure  
27 and electrical operations. Accordingly, each VM Defendant's conduct should be

1 assessed under such professional standards.

2       54. In addition, each VM Defendant had a duty to properly inspect and  
3 identify trees and other vegetation that posed a risk to, or was endangered by,  
4 PG&E's electrical lines, to mark such trees and other vegetation for work or removal,  
5 and to remove or trim trees and other vegetation. Proper performance of these duties  
6 was necessary for each VM Defendant to comply with applicable standards of care,  
7 including but not limited to the Public Resources Code, industry standards, and  
8 PG&E's policies and procedures.

9       55. Each VM Defendant received lucrative contracts from PG&E to mitigate  
10 wildfire risk. Each VM Defendant executed one or more Master Services Agreements  
11 ("MSA") with PG&E to provide vegetation management services in support of  
12 PG&E's duty to operate its electrical equipment without causing fires. The primary  
13 purpose of each MSA was to provide a set of terms, conditions, and requirements that  
14 would apply to each VM Defendant's work for PG&E. In most cases, each VM  
15 Defendant's work was also governed by a specific Contract Work Authorization  
16 ("CWA") entered into under the respective MSA. The work performed by each VM  
17 Defendant under the relevant CWA was intended to identify and mitigate the risk of  
18 vegetation hitting PG&E transmission and distribution lines during high wind  
19 events, and thus reduce the risk of widespread wildfires being ignited by PG&E lines  
20 and dangerously spreading uncontrolled through communities across Northern  
21 California.

22       56. Each VM Defendant was aware that if it failed to perform its  
23 contractual duties to the standard required of a professional expert, a significant risk  
24 existed of a catastrophic wildfire causing injury and death to persons within the fire  
25 perimeters as well as extraordinary property damage.

26       57. Each VM Defendant undertook the duty to properly and reasonably  
27 perform vegetation management work to identify and remediate vegetation issues

1 around PG&E lines.

2       58. Each VM Defendant undertook the duty to use its professional training  
3 and experience, best efforts, and reasonable care to protect foreseeable victims of  
4 fires caused by PG&E's equipment, namely, Californians in the areas serviced by  
5 PG&E's electrical system.

6        59. Each VM Defendant, in performing under its contracts with PG&E,  
7 understood and recognized that vegetation management services were for the benefit  
8 of both PG&E and the citizens of California, who were at risk of injury and damage  
9 from wildfires caused by trees or vegetation coming into contact with or otherwise  
10 damaging PG&E's electrical system.

11       60. Each VM Defendant also failed to take contractually required and  
12 industry-standard precautions that would have prevented the Wildfires from  
13 occurring.

**4. PG&E Bankruptcy, Settlement and Assignment of Rights to the Fire Victim Trust**

16        61. Each VM Defendant's respective failure to provide the contracted  
17 services to PG&E, or to do so competently, caused devastating financial losses for  
18 PG&E in the form of its own equipment losses, as well as liabilities (both via strict  
19 liability and otherwise) to third parties who suffered death, personal injury, or  
20 property damage as a result of the Wildfires.

21        62. As alleged above, PG&E under the Plan assigned to the Fire Victim  
22 Trust the right to bring the Assigned Rights and Causes of Action to provide  
23 compensation to victims of the Wildfires, including claims for damages and  
24 indemnification on behalf of PG&E.

25        63. Among the claims resolved by the Plan were claims based on any theory  
26 of inverse condemnation. (See *In re PG&E*, *supra*, Docket Entry No. 8053.)

64. Inverse condemnation is a legal principle, rooted in the California

1 Constitution whereby utilities such as PG&E are held strictly liable for damage  
2 arising from fires caused by utility electrical equipment. (See Cal. Const., art. I, § 19.)

3       65. On November 26, 2019, the Bankruptcy Court held that inverse  
4 condemnation applied to PG&E for all of the 2017 Northern California Wildfires and  
5 the 2018 Camp Fire. (See *In re PG&E, supra*, Docket Entry No. 4895.)

6       66. As the Bankruptcy Court explained: "In short, the California  
7 Constitution imposes strict liability in favor of the owner of property that has been  
8 taken or damaged through a public use or purpose and does not concern itself with  
9 the rights or liabilities of whom or what did the damage. It is a form of strict liability  
10 imposed on the party causing, or whose equipment caused, the damage." (*Id.* at 3.)

11       67. Each VM Defendant's indemnity obligations to PG&E include, but are  
12 not limited to, the obligation to indemnify PG&E for its strict liability associated with  
13 inverse condemnation based on the Wildfires. This indemnification obligation, and  
14 other indemnification obligations of the VM Defendants, are within the Assigned  
15 Rights and Causes of Action assigned to the Trust.

16       68. As part of its Plan, PG&E agreed to settle its wildfire liabilities,  
17 including but not limited to inverse condemnation liabilities, to injured third parties,  
18 for a total of \$25.5 billion, of which \$13.5 billion was allocated for wildfire victims,  
19 \$11 billion was allocated for the subrogated insurers of wildfire victims, and \$1  
20 billion was allocated to certain public entities.

21       69. The \$13.5 billion allocated to wildfire victims was distributed to the  
22 Trust for individual allocation to wildfire victims through a claims-handling process.

23       70. On July 1, 2020, the assignment of the Assigned Rights and Causes of  
24 Action to the Trust became effective under the Plan.

25       71. Each VM Defendant has failed to indemnify PG&E for the damage  
26 caused by the Wildfires.

27       72. Claims to recover for each VM Defendant's failure to add PG&E as an

- 1 Additional Insured under its general liability policies as required under each VM
- 2 Defendant's contracts with PG&E, are within the Assigned Rights and Causes of
- 3 Action assigned to the Trust.

## CAUSES OF ACTION

**FIRST CAUSE OF ACTION**

**6 For Breach of Contract – Performance and Express Contractual Indemnity**  
**7 (Against All VM Defendants)**

8       73. The Trustee incorporates by reference, as though set forth in full herein,  
9 paragraphs 1 through 72 of this Complaint.

10       74. Each VM Defendant and PG&E entered into a series of written  
11 contracts in the form of MSAs and CWAs, as herein alleged.

12        75. PG&E performed all, or substantially all, of the significant conditions,  
13 covenants, promises, and duties to be performed by it under its contracts with the  
14 VM Defendants, or such obligations have been excused.

15        76. All of the conditions that were required for each VM Defendant to  
16 perform under its respective contracts with PG&E have been satisfied and occurred.

17       77. A material term of each contract with the VM Defendants was that they  
18 would perform vegetation management work to identify, remove or trim vegetation  
19 within striking distance of PG&E's transmission and distribution lines pursuant to  
20 regulatory and industry standards to prevent vegetation from coming into contact  
21 with, or other damaging, PG&E equipment, especially during high wind events. VM  
22 Defendants were aware that improperly managed vegetation presented a significant  
23 risk of igniting wildfires.

24       78. A material term of each contract with the VM Defendants was that they  
25 would perform vegetation management work to comply with regulatory requirements  
26 of vegetation utility line clearance, including but not limited to:

a. pre-clearance inspection of PG&E transmission and distribution

1                   lines to identify vegetation needing trimming, pruning or  
2                   removal,

3                   b.       timely clearance of vegetation in close proximity to PG&E  
4                   transmission and distribution lines identified as needing  
5                   trimming, pruning or removal,

6                   c.       proper training of employees to recognize hazardous and  
7                   dangerous trees and vegetation in close proximity to PG&E  
8                   transmission and distribution lines, and

9                   d.       compliance with vegetation management laws and regulations.

10          79.     An express or implied term of each contract with the VM Defendants  
11         was that they would provide competent vegetation management services to PG&E,  
12         pursuant to its contractual obligations, so as to identify and mitigate vegetation that  
13         posed a risk to PG&E lines, in compliance with the applicable statutes, regulations,  
14         and standards.

15          80.     The Wildfires were a direct, proximate, and legal result of each VM  
16         Defendant's breach of the express and implied terms of its contracts with PG&E by  
17         failing to perform vegetation management services with diligence and reasonable  
18         care.

19          81.     Each VM Defendant further failed to provide competent vegetation  
20         management services to PG&E, pursuant to its contractual obligations to ensure the  
21         proper maintenance and safe operation of PG&E's electrical equipment in compliance  
22         with the applicable statutes, regulations and standards, resulting in the Wildfires.

23          82.     Each VM Defendant's breaches under its respective contracts also  
24         include failure to trim, prune or remove trees and other vegetation that posed a risk  
25         of starting a fire by coming into contact or damaging PG&E's transmission or  
26         distribution lines. Defendants further failed to institute or recommend increasing the  
27         frequency and quality of inspections and line clearance as part of PG&E's VM

1 Program. VM Defendants' failures resulted in the Wildfires.

2       83. As a result of each VM Defendant's failure to perform its express and  
3 implied contractual duties, PG&E has suffered damages, including incurring liability  
4 for personal injury, wrongful death, and property damage caused by the Wildfires.  
5 PG&E's liabilities arose from claims against it based on general negligence in the  
6 management of the electrical infrastructure, negligent violations of law, strict  
7 liability imposed by law, including inverse condemnation, damages incurred by  
8 subrogated insurers who covered claims made by wildfire victims, and damages  
9 sustained by certain public entities.

10      84. Pursuant to the Plan, on the Effective Date, PG&E settled its liability  
11 from the Wildfires to such individuals and entities by, among other things, funding  
12 and committing to fund the Fire Victim Trust.

13      85. Each VM Defendant, pursuant to its contracts with PG&E, is required  
14 to indemnify PG&E for liability for personal injury and wrongful death claims, as  
15 well as all personal damage actions against PG&E arising from each VM Defendant's  
16 activity "connected in any way" to their vegetation management services and  
17 performance under the contracts.

18      86. PG&E, pursuant to the Plan, assigned to the Fire Victim Trust the right  
19 to recover from each VM Defendant its indemnity obligations to PG&E.

20      87. Additionally, each VM Defendant had a contractual duty to PG&E to  
21 protect PG&E's electrical equipment from contact with or damage from trees and  
22 other vegetation by taking due care to competently identify and remove or remediate  
23 hazardous vegetation next to PG&E's lines.

24      88. Each VM Defendant reasonably could have foreseen that its failure to  
25 meet its duties under its contracts would result in wildfires that would destroy  
26 PG&E's electrical equipment, which occurred and caused PG&E to suffer damages.

27      89. As a result of each VM Defendant's breach of its contractual duties,

1 PG&E suffered damages in an amount to be proven at trial.

2       90. PG&E, pursuant to the Plan, assigned to the Fire Victim Trust the right  
3 to recover damages from the VM Defendants, for the benefit of the victims of the  
4 Wildfires, all damages suffered by PG&E based on the VM Defendant Consultants'  
5 above-described breaches of their contractual duties, including their contractual  
6 obligations to indemnify PG&E.

## **SECOND CAUSE OF ACTION**

## **For Breach of Contract - Insurance**

**(Against All VM Defendants)**

91. The Trustee incorporates by reference, as though set forth in full herein,  
paragraphs 1 through 90 of this Complaint.

12        92. Each of the contracts between the VM Defendants and PG&E required  
13 that each VM Defendant maintain insurance coverage, including Commercial  
14 General Liability insurance with specified minimum coverage limits, and that VM  
15 Defendants add PG&E as an “Additional Insured” to their respective Commercial  
16 General Liability policies.

17        93. On information and belief, each VM Defendant breached its contracts by  
18 failing to ensure that PG&E was added as an “Additional Insured” to VM  
19 Defendants’ respective Commercial General Liability policies.

20        94. On information and belief, PG&E timely tendered an indemnity demand  
21 to each VM Defendant's general liability insurers and demanded that they indemnify  
22 PG&E as an additional insured under the general liability policies.

23        95. None of the VM Defendants' insurers have paid any portion of the  
24 damages that PG&E has incurred. Consequently, PG&E has been deprived of the  
25 insurance coverage that each VM Defendant was obligated to provide under its  
26 contracts.

27 ||| 96. Because VM Defendants' insurance carriers have failed or refused to

1 indemnify PG&E pursuant to an additional insured endorsement, each VM  
2 Defendant is obligated to stand in the place of its insurers and indemnify PG&E.  
3 Each VM Defendant breached its duty by failing to indemnify PG&E for any portion  
4 of the damages that PG&E incurred in settling the Wildfire claims and funding the  
5 Trust.

6        97. The Trust's damages include the amounts that PG&E would have  
7 received under the VM Defendants' insurance policies for indemnity with respect to  
8 the litigation arising out of the Wildfires had the VM Defendants' general liability  
9 policy insurers acknowledged PG&E as an Additional Insured and performed the  
10 duties they owed to PG&E as an Additional Insured.

11        98.     Given that VM Defendants stand in the place of their insurers, the  
12 Trust is entitled to an award of attorneys' fees and punitive damages pursuant to the  
13 contract with PG&E.

### **THIRD CAUSE OF ACTION**

**For Breach of Implied Covenant of Good Faith and Fair Dealing  
(Against All VM Defendants)**

17       99. The Trustee incorporates by reference, as though set forth in full herein,  
18 paragraphs 1 through 98 of this Complaint.

19       100. Each VM Defendant and PG&E entered into written contracts in the  
20 form of MSAs and CWAs, as herein alleged.

21        101. PG&E performed all of the conditions required of it under the contracts  
22 with each VM Defendants.

23 102. All of the conditions required for each VM Defendant to perform under  
24 the contract had occurred.

25        103. In each PG&E contract with each VM Defendant, California law implies  
26 a covenant of good faith and fair dealing, pursuant to which neither party may take  
27 or fail to take action that would deprive the other party of the intended benefits of

1 the contract. In this case, the Defendant Consultants impliedly covenanted that in  
2 performing vegetation management services each VM Defendant would focus its  
3 efforts on the overall safety of the electrical system, and that all work on aspects of  
4 the system would be in the context of overall planning for safety. PG&E had a right  
5 under each such contract to receive the benefit of the most experienced and qualified  
6 expertise on vegetation management services, which is what VM Defendants  
7 purported to be selling, to mitigate its own risk and exposure and protect the safety  
8 of Californians.

9        104. Each VM Defendant breached the implied covenant of good faith and  
10 fair dealing when it stalled or otherwise delayed critical vegetation clearance work  
11 without examining the overall impact that its delay would have on the risk of  
12 vegetation-caused electrical grid fires. Each VM Defendant failed to execute its  
13 vegetation management services such that it was capable of keeping up with the  
14 amount of vegetation management work needed for PG&E to safely operate the grid,  
15 thereby denying PG&E of the expertise for which it had bargained.

16        105. By reason of the VM Defendants' breach of the implied covenant of good  
17 faith and fair dealing, PG&E suffered damages. PG&E has assigned to the Trust the  
18 right to recover these damages for the benefit of the victims of the Wildfires.

## **FOURTH CAUSE OF ACTION**

**For Equitable Indemnity (Comparative Fault Between and Among  
Tortfeasors)**

23       106. The Trustee incorporates by reference, as though set forth in full herein,  
24 paragraphs 1 through 105 of this Complaint.

25           107. As alleged herein, VM Defendants were negligent in the provision of  
26 their vegetation management services to PG&E.

27 | 108. The negligent conduct of each VM Defendant was a substantial factor in

1 causing PG&E's equipment to ignite the Wildfires, which resulted in damage to life  
2 and property and caused PG&E to incur billions of dollars in liability in funding the  
3 Plan. PG&E has assigned to the Trust the right to recover these damages for the  
4 benefit of the victims of the Wildfires.

5        109. Equity requires that each VM Defendant pay a proportionate share of  
6 damages corresponding to its percentage of responsibility.

## **FIFTH CAUSE OF ACTION**

## **For Negligence**

## **(Against All VM Defendants)**

10        110. The Trustee incorporates by reference, as though set forth in full herein,  
11 paragraphs 1 through 109 of this Complaint.

12        111. Each VM Defendant entered into contracts with PG&E, whereby each  
13 voluntarily and deliberately undertook the duty to act competently to identify and  
14 correct unsafe vegetation conditions, so as to ensure the proper maintenance and safe  
15 operation of PG&E's electrical system in compliance with the applicable statutes,  
16 regulations, and standards.

17        112. It was reasonably foreseeable that each VM Defendant's vegetation  
18 management services would directly impact Californians who required protection  
19 from deadly and devastating wildfires caused by vegetation hitting PG&E's electrical  
20 equipment during high wind events. Accordingly, each VM Defendant assumed a  
21 duty of care to both PG&E and to the foreseeable victims of wildfires caused by  
22 vegetation coming into contact with or otherwise damaging PG&E's electrical  
23 infrastructure.

24        113. Each VM Defendant breached its duty by failing to use reasonable care  
25 in the vegetation management work it performed, including by failing to identify,  
26 clear or mitigate vegetation issues that presented a significant risk of igniting  
27 wildfires. Specifically, each VM Defendant breached its duties by failing to (1) inspect

1 trees and other vegetation so as to ensure compliance with the applicable statutes,  
2 regulations and standards; (2) timely and properly trim and remove vegetation; (3)  
3 properly identify trees and other vegetation that posed a threat to PG&E's electrical  
4 lines; and (4) train their employees to recognize hazardous and dangerous trees and  
5 other vegetation. Each VM Defendant also breached its duties by participating in a  
6 program that offered incentives to its employees for reducing the number of trees and  
7 other plants that they marked trimming, removal, or other vegetation management  
8 work.

9       114. Each VM Defendant further breached its duty by failing to use  
10 reasonable care to identify and correct unsafe conditions to ensure the proper  
11 maintenance and safe operation of PG&E's electrical equipment in compliance with  
12 the applicable statutes, regulations, and standards, including with respect to the  
13 dangerous conditions that caused the Wildfires.

14       115. As a result of VM Defendants' negligence in rendering vegetation  
15 management services, Santa Ana winds caused various trees to come into contact  
16 with PG&E electrical lines, which resulted in the Wildfires.

17       116. The negligence of each VM Defendant was a substantial contributing  
18 cause of the Wildfires, resulting in catastrophic loss of life and property.

19       117. As a result of each VM Defendant's negligence, PG&E incurred liability  
20 for personal injury, wrongful death, and property damage caused by the Wildfires.  
21 PG&E's liabilities arose from claims against it based on general negligence in the  
22 management of the electrical infrastructure, negligent violations of law, strict  
23 liability imposed by law, including inverse condemnation, and damages incurred by  
24 subrogated insurers who covered claims made by wildfire victims, and damages  
25 suffered by certain public entities.

26       118. PG&E settled its liability to such individuals and entities as part of the  
27 Plan, thereby suffering damages. In addition, PG&E suffered damages to its

1 equipment resulting from the Wildfires. Under the Plan, PG&E assigned to the Trust  
2 the right to recover these damages as alleged in this Complaint.

3 **SIXTH CAUSE OF ACTION**

4 **For Professional Negligence**  
5 **(Against All VM Defendants)**

6 119. The Trustee incorporates by reference, as though set forth in full herein,  
7 paragraphs 1 through 118 of this Complaint.

8 120. Each VM Defendant represented to PG&E that it was a professional  
9 expert vegetation management with specialized training and expert skill in  
10 identifying and trimming and removing dangerous vegetation in close proximity to  
11 utility infrastructure.

12 121. Each VM Defendant owed a duty to PG&E, as well as to reasonably  
13 foreseeable fire victims of a PG&E-caused wildfire, to exercise the skill and care that  
14 a skilled professional would use in the work performed for PG&E.

15 122. By reason of the foregoing, each VM Defendant breached its professional  
16 duty of care, and failed to exercise the level of skill, care, and diligence that a  
17 reasonable professional would exercise to assist PG&E to prevent wildfires resulting  
18 from its electrical infrastructure.

19 123. Each VM Defendant failed to perform its services for PG&E in accord  
20 with professional standards of care and their acts and omissions were a substantial  
21 contributing cause of the Wildfires and resulting damages, as alleged herein. Under  
22 the Plan, PG&E has assigned to the Trust the right to recover these damages from  
23 each VM Defendant for the benefit of the victims of the Wildfires.

24 ////

25 ////

26 ////

27 ////

28

LAW OFFICES OF  
WALKUP, MELODIA, KELLY  
& SCHOENBERGER  
A PROFESSIONAL CORPORATION  
650 CALIFORNIA STREET  
26TH FLOOR  
SAN FRANCISCO, CA 94108  
(415) 981-7274

## **SEVENTH CAUSE OF ACTION**

## **Unjust Enrichment**

**(Against Defendants Davey Resource Group, Inc., Davey Tree Expert Company; Davey Tree Surgery Company; and Does 1 through 25)**

124. The Trustee incorporates by reference, as though set forth in full herein, paragraphs 1 through 123 of this Complaint.

7        125. Each Defendant failed to provide competent services to PG&E,  
8 breaching to its contractual obligations, so as to ensure operation of PG&E's  
9 electrical equipment in compliance with the applicable statutes, regulations and  
10 standards, thereby causing the Wildfires.

11        126. As a result of each Defendant's failures, PG&E suffered damages as  
12 alleged herein.

13        127. Nevertheless, and despite their failures to perform its obligations and  
14 duties to prevent PG&E equipment from causing wildfires, Defendants received  
15 substantial sums from PG&E for ‘emergency’ work authorized in the aftermath of the  
16 2017 fires.

17       128. Accordingly, each Defendant was unjustly enriched at PG&E's expense  
18 because each received the financial benefit of being awarded contracts with PG&E to  
19 perform additional vegetation management work under higher rates, and on  
20 information and belief, to perform work that should have already been performed  
21 under non-emergency vegetation management contracts.

## PRAYER FOR RELIEF

23 Wherefore, Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim  
24 Trust, prays for judgment against each VM Defendant as follows:

- a. For damages according to proof at trial;
- b. For complete or partial indemnity for the obligations and damages incurred and Assigned to the Trustee;

1           c. For pre-judgment interest;

2           d. For attorney's fees and punitive damages according to

3           Defendants' contracts with PG&E;

4           e. For attorneys' fees, expert fees, consultant fees, and other

5           litigation expenses, as permitted by law;

6           f. For costs of suit herein;

7           g. For such other and further relief as the Court may deem just and

8           proper.

9           **DEMAND FOR JURY TRIAL**

10          Plaintiff hereby demands a jury trial.

11          Dated: January 28, 2021

WALKUP, MELODIA, KELLY & SCHOENBERGER

13          By: 

14          MICHAEL A. KELLY  
15          KHALDOUN A. BAGHDADI  
16          650 California Street, 26<sup>th</sup> Floor  
17          San Francisco, CA 94108  
18          Tel: (415) 981-7210  
19          Fax: (415) 391-6965  
20          [mkelly@walkuplawoffice.com](mailto:mkelly@walkuplawoffice.com)  
21          [kbaghdadi@walkuplawoffice.com](mailto:kbaghdadi@walkuplawoffice.com)

22          Attorneys for Plaintiff John K. Trotter,  
23          Jr., Trustee of the PG&E Fire Victim  
24          Trust

25          (additional counsel listed on following  
26          pages)

1 Dated: January 28, 2021

ANDREWS & THORNTON

3 By: /s/ Anne Andrews

4 ANNE ANDREWS  
5 JOHN C. THORNTON  
6 SEAN T. HIGGINS  
7 ROBERT S. SIKO  
8 4701 Von Karman Ave., Suite 300  
9 Newport Beach, CA 92660  
Tel (949) 748-1000  
Fax (949) 315-3540  
[aa@andrewsthornton.com](mailto:aa@andrewsthornton.com)  
[jct@andrewsthornton.com](mailto:jct@andrewsthornton.com)  
[shiggins@andrewsthornton.com](mailto:shiggins@andrewsthornton.com)  
[rsiko@andrewsthornton.com](mailto:rsiko@andrewsthornton.com)

11 Dated: January 28, 2021

12 GREENBERG GROSS LLP

14 By: /s/ Alan A. Greenberg

15 ALAN A. GREENBERG  
16 WAYNE R. GROSS  
EVAN C. BORGES  
17 601 South Figueroa Street, 30<sup>th</sup> Floor  
Los Angeles, California 90017  
18 Tel: (213) 334-7000  
Fax: (213) 334-7001  
[AGreenberg@GGTrialLaw.com](mailto:AGreenberg@GGTrialLaw.com)  
[WGross@GGTrialLaw.com](mailto:WGross@GGTrialLaw.com)  
[EBorges@GGTrialLaw.com](mailto:EBorges@GGTrialLaw.com)

21 Attorneys for Plaintiff John K. Trotter,  
Jr., Trustee of the PG&E Fire Victim  
22 Trust

23 (additional counsel listed on following  
24 pages)

1 Dated: January 28, 2021

COTCHETT PITRE & McCARTHY

8 By: /s/ Frank M. Pitre

FRANK M. PITRE  
San Francisco Airport Office Center  
840 Malcolm Road, Suite 200  
Burlingame, CA 94010  
Tel: (650) 697-6000  
Fax: (650) 697-0577  
[fpitre@cpmlegal.com](mailto:fpitre@cpmlegal.com)

9 Dated: January 28, 2021

DREYER, BABICH, BUCCOLA, WOOD, CAMPORA

11 By: /s/ Steven M. Campora

12 STEVEN M. CAMPORA  
13 20 Bicentennial Circle  
14 Sacramento, CA 95826  
15 Tel: (916) 379-3500  
16 Fax: (916) 379-3599  
[scampora@dbbw.com](mailto:scampora@dbbw.com)

17 Dated: January 28, 2021

COREY, LUZAICH, DE GHETALDI & RIDDLE, LLP

18 By: /s/ Dario de Ghetaldi

19 DARIO de GHETALDI  
20 700 El Camino Real  
21 PO Box 669  
22 Millbrae, CA 94030  
23 Tel: (650) 871-5666  
24 Fax: (650) 871-4144  
[deg@coreylaw.com](mailto:deg@coreylaw.com)

25 Attorneys for Plaintiff John K. Trotter,  
26 Jr., Trustee of the PG&E Fire Victim  
27 Trust

FOR COURT USE ONLY

**F I L E D**  
 Superior Court of California  
 County of San Francisco

JAN 28 2021

CLERK OF THE COURT  
  
 Deputy Clerk

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Michael A. Kelly/Khalidoun A. I Walkup, Melodia, Kelly &amp; Schoenberger    650 California Street, 26th Floor    San Francisco, CA 94108</b>		TELEPHONE NO.: (415) 981-7210      FAX NO.: (415) 391-6965
ATTORNEY FOR (Name): Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco STREET ADDRESS: 400 McAllister Street MAILING ADDRESS: CITY AND ZIP CODE: San Francisco, CA 94102 BRANCH NAME: Civil-Unlimited		
CASE NAME: Trotter v. Davey Resource Group, Inc; Davey Tree Expert Company; Davey Tree Surgery Company, and DOES 1 through 25, inclusive		

<b>CIVIL CASE COVER SHEET</b>		<b>Complex Case Designation</b>	CASE NUMBER: <b>CGC 21-589439</b>
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:		
<input type="checkbox"/> Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	<input type="checkbox"/> Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	<input type="checkbox"/> Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input checked="" type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<input type="checkbox"/> Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	<input type="checkbox"/> Real Property <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	<input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20)
<input type="checkbox"/> Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	<input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	<input type="checkbox"/> Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
<input type="checkbox"/> Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<input type="checkbox"/> Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<input type="checkbox"/> Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case  is  not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a.  Large number of separately represented parties
- b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c.  Substantial amount of documentary evidence
- d.  Large number of witnesses
- e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): Seven

5. This case  is  not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 28, 2021

Khalidoun A. Baghdadi

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

#### NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties In Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties In Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

### CASE TYPES AND EXAMPLES

#### Auto Tort

- Auto (22)-Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

#### Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
  - Medical Malpractice-Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

#### Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

#### Employment

- Wrongful Termination (36)
- Other Employment (15)

#### Contract

- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease
    - Contract (*not unlawful detainer or wrongful eviction*)
  - Contract/Warranty Breach-Seller Plaintiff (*not fraud or negligence*)
  - Negligent Breach of Contract/Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case-Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

#### Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (28)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

#### Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

#### Judicial Review

- Asset Forfeiture (06)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ-Administrative Mandamus
  - Writ-Mandamus on Limited Court Case Matter
  - Writ-Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal-Labor Commissioner Appeals

#### Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

#### Enforcement of Judgment

- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment (*non-domestic relations*)
  - Sister State Judgment
  - Administrative Agency Award (*not unpaid taxes*)
- Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

#### Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
  - Declaratory Relief Only
  - Injunctive Relief Only (*non-harassment*)
  - Mechanics Lien
  - Other Commercial Complaint Case (*non-tort/non-complex*)
  - Other Civil Complaint (*non-tort/non-complex*)

#### Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief from Late Claim
  - Other Civil Petition

# EXHIBIT D

1 MICHAEL A. KELLY (State Bar #71460)  
mkelley@walkuplawoffice.com  
2 KHALDOUN A. BAGHDADI (State Bar #  
kbaghdadi@walkuplawoffice.com  
3 **WALKUP, MELODIA, KELLY**  
**& SCHOENBERGER**  
4 650 California Street, 26th Floor  
San Francisco, CA 94108  
5 Telephone: (415) 981-7210  
Facsimile: (415) 391-6965

6 ANNE ANDREWS (Bar No. 103280)  
aandrews@andrewsthornton.com  
7 JOHN C. THORNTON (Bar No. 84492)  
jct@andrewsthornton.com  
8 SEAN T. HIGGINS (Bar No. 266888)  
shiggins@andrewsthornton.com  
9 ROBERT S. SIKO (Bar No. 312856)  
rsiko@andrewsthornton.com  
10 **ANDREWS & THORNTON**  
11 4701 Von Karman Ave, Suite 300  
Newport Beach, California 92660  
12 Telephone: (949) 748-1000  
Facsimile: (949) 315-3540

13 (ADDITIONAL COUNSEL LISTED ON SIGNATURE PAGES)

14 ATTORNEYS FOR PLAINTIFF JOHN K. TROTTER,  
JR., TRUSTEE OF THE PG&E FIRE VICTIM TRUST

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
17 COUNTY OF SAN FRANCISCO

19 JOHN K. TROTTER, JR., Trustee of the  
PG&E Fire Victim Trust.

**Plaintiff,**

100

v.

22 ACRT PACIFIC, LLC; ACRT, INC.,  
23 DAVEY RESOURCE GROUP, INC.;  
24 DAVEY TREE EXPERT COMPANY;  
25 DAVEY TREE SURGERY COMPANY;  
OSMOSE UTILITIES SERVICES, INC.;  
and DOES 1 through 25, inclusive.

#### **Defendants.**

CasCo.C - 21-589441

## **COMPLAINT FOR DAMAGES**

- 1) Breach of Contract (Performance and Express Contractual Indemnity)
- 2) Breach of Contract (Insurance)
- 3) Breach of Implied Duty of Good Faith and Fair Dealing
- 4) Equitable Indemnity
- 5) Negligence
- 6) Professional Negligence
- 7) Unjust Enrichment

## JURY TRIAL DEMANDED

1 Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim Trust (the  
2 "Trustee" or "Plaintiff"), brings this action against Defendants ACRT Pacific, LLC;  
3 ACRT, Inc., Davey Resource Group, Inc., Davey Tree Expert Company, Davey Tree  
4 Surgery Company, and Osmose Utilities Services, Inc., (hereinafter collectively  
5 referred to as "VM Defendants" or "Defendants") as follows:

6 **NATURE OF THE ACTION**

7 1. Prior to 2020, Pacific Gas & Electric Company ("PG&E")<sup>1</sup> owned and  
8 operated a power grid and electrical system, which was the cause of several  
9 catastrophic wildfires, including: the Butte Fire on September 9, 2015, the Adobe,  
10 Atlas, Norrbom, Nuns, Partrick, Point, Sulphur, and Tubbs Fires on October 8 and 9,  
11 2017<sup>2</sup>, and the Camp Fire on November 8, 2018 (collectively, the "Wildfires"). Each of  
12 these fires started because of separate and distinct failures to observe due care, as  
13 well as the failure to fulfill statutory and contractual obligations on the part of the  
14 defendants named herein.

15 2. On January 29, 2019, PG&E filed a voluntary Chapter 11 bankruptcy  
16 petition in the United States Bankruptcy Court for the Northern District of  
17 California, as a result of PG&E's substantial and overwhelming liabilities associated  
18 with the 2015, 2017, and 2018 Wildfires caused by its electrical equipment. (*In re*  
19 *PG&E Corp.* (Bankr. N.D. Cal.) Case No. 19-30088, Docket Entry Nos. 7711 and  
20 8053.) After notice to all interested parties, the Bankruptcy Court confirmed a  
21 bankruptcy plan binding on PG&E, its creditors, and all parties in interest, including  
22 the victims of the Wildfires (the "Plan"), as of the Effective Date. (*In re PG&E, supra*,  
23 Docket Entry No. 8053.)

24 \_\_\_\_\_  
25 <sup>1</sup> As used herein, "PG&E" refers to the former Pacific Gas & Electric Company as it  
26 existed prior to the effective date of its Chapter 11 bankruptcy plan of July 1, 2020  
(the "Effective Date"), and not the newly emerged Pacific Gas & Electric Company.

27 <sup>2</sup> The Oakmont/Pythian Fire started on or about October 13, 2017. For ease of  
reference to the firestorm commonly referred to as the "North Bay Fires", this  
Complaint will refer to October 8 and 9, 2017 as the ignition dates.

1       3.     The Plan provided, among other things, for the creation of the Fire  
2 Victim Trust. *Id.* Pursuant to the Plan, by operation of federal law, PG&E assigned  
3 to the Trust certain rights, claims, and causes of action (the "Assigned Rights and  
4 Causes of Action"). The Assigned Rights and Causes of Action include "any and all  
5 rights, claims, causes of action, and defenses related thereto relating directly or  
6 indirectly to any of the prepetition Fires that the Debtors may have against vendors,  
7 suppliers, third party contractors and consultants (including those who provided  
8 services, directly or indirectly, regarding the Debtors' electrical system, system  
9 equipment, inspection and maintenance of the system, and vegetation  
10 management)." (*In re PG&E, supra*, Docket Entry No. 7712-1 at 1.) The claims  
11 pursued by the Trustee in this Complaint are within the Assigned Rights and Causes  
12 of Action.)

13       4.     The Trust was established for two overall purposes: (1) to provide  
14 compensation to victims of the Wildfires based on a claims-administration process;  
15 and (2) to recover additional funds for the benefit of victims of the Wildfires,  
16 including by bringing the Assigned Rights and Causes of Action on behalf of PG&E  
17 against other responsible parties. This Complaint is an asset recovery action against  
18 responsible third parties brought for the benefit of the victims of the Wildfires.

19       5.     Each VM Defendant contributed to PG&E's failure to mitigate the risk  
20 of wildfires through PG&E's systems for evaluating, inspecting and clearing trees  
21 and vegetation overgrowth, as well as other vegetation hazards such as disease and  
22 decay, in proximity to PG&E transmission and distribution lines, as necessary to  
23 comply with California regulations regarding management of vegetation along utility  
24 power lines. Each VM Defendant entered into lucrative contracts with PG&E to  
25 implement its vegetation management programs, practices, policies, and procedures  
26 (PG&E's "VM Program"). In those contracts, each VM Defendant promised PG&E  
27 that it would perform VM Program services to reduce the risk of wildfire caused by

1 vegetation issues and otherwise assist PG&E in complying with its regulatory duties.  
2 Each VM Defendant thereby joined PG&E in the solemn duty to prevent the deadly  
3 and catastrophic wildfires that could be caused by PG&E equipment.

4       6. During the relevant time period, each VM Defendant participated in,  
5 implemented and executed PG&E's VM Program.

6       7. All VM Defendants held themselves out as fully capable to advise  
7 regarding, if not experts in, evaluating and managing trees and other vegetation  
8 that, due to their proximity to power transmission and distribution lines, pose a risk  
9 of damaging utility lines and causing fires. Each VM Defendant subsequently failed  
10 to perform or negligently performed their duties. In addition to PG&E itself, the  
11 known and foreseeable victim of wildfires, who would be injured and damaged by VM  
12 Defendants' breach of their duties, were California residents and businesses in the  
13 area of the PG&E electrical grid in Northern California. The VM Defendants' acts  
14 and omissions were substantial contributing causes of the Wildfires.

15       8. The failures that caused the Wildfires arose from the combined conduct  
16 of PG&E and VM Defendants, each of whom failed in their essential roles in reducing  
17 the risk of fires caused by vegetation.

18       9. In the aftermath of the Wildfires, California regulatory officials  
19 uncovered PG&E practices permitting dangerous conditions, which caused the  
20 individual Wildfires, to go uncorrected. In particular, California regulatory officials  
21 found that PG&E failed to abide by legal safety requirements for managing  
22 vegetation near its power lines. These substandard, negligent and dangerous  
23 practices were contributed to, caused, and/or exacerbated by VM Defendants'  
24 breaches of their contractual duties and duties of care with respect to PG&E's VM  
25 Programs.

26       ////

27       ////

## **GENERAL ALLEGATIONS**

### A. The Parties

3       10.    Plaintiff Trustee of the PG&E Fire Victim Trust. Plaintiff John K.  
4 Trotter, Jr. is the duly appointed Trustee of the PG&E Fire Victim Trust (the "Fire  
5 Victim Trust" or the "Trust"), which was established pursuant to the Plan. The  
6 Trustee is a resident of the State of California. The Trust is a Delaware statutory  
7 trust.

8       11. The Plan resulted in the creation of the Trust. Case No. 19-30088, D.E.  
9 8053. The Trust was established to administer individual victims' claims against  
10 PG&E related to the Wildfires, which were caused by PG&E's electrical equipment.

11       12. Defendants ACRT Pacific, LLC, and ACRT, Inc. ACRT Pacific, LLC is a  
12 corporation organized and existing under the laws of the State of California and  
13 headquartered in Stow, Ohio. ACRT, Inc., is a corporation organized and existing  
14 under the laws of the State of Ohio and headquartered in Stow, Ohio with, at all  
15 relevant times, a second principal place of business in Stockton, California.<sup>3</sup> At all  
16 relevant times, ACRT, Inc., has been licensed to do business in and actually  
17 conducted business in the State of California. In October 2017, ACRT Pacific, LLC,  
18 was formed by ACRT, Inc., and ACRT, Inc., assigned its contracts with PG&E to  
19 ACRT Pacific, LLC. On information and belief, as part of the formation of and  
20 transfer of the PG&E contracts to ACRT Pacific, LLC, ACRT Pacific, LLC expressly  
21 acquired some or all liabilities for and is otherwise the successor-in-interest to ACRT,  
22 Inc. Alternatively, ACRT Pacific, LLC, is ACRT, Inc.'s successor-in-interest as a mere  
23 continuation of ACRT, Inc. with respect to work that ACRT, Inc., was performing for

25 <sup>3</sup> Defendant ACRT, Inc. removed its principal place of business in California in  
26 September 2020, but on information and belief, at all relevant times, including to the  
27 present, Defendant ACRT, Inc., maintained a principal office in Stockton, California.  
28 As of January 26, 2021, the main page of ACRT Pacific, LLC's website lists its  
corporate office address as 3443 Deer Park Dr., STE. B, Stockton, CA 95219. See  
<https://pacific.acrt.com/>, last accessed 1/26/21.

1 PG&E. Defendants ACRT Pacific, LLC, and ACRT, Inc., are hereinafter collectively  
2 referred to as Defendants ACRT. Defendants ACRT are professional services  
3 companies offering a suite of vegetation management services for utility operations,  
4 including performance of pre-inspection duties for utilities' vegetation management  
5 programs, auditing or quality control of vegetation management work, creation of  
6 vegetation clearance work orders, and other related vegetation management work. In  
7 the course of said business, Defendants ACRT were hired by and performed  
8 vegetation management services for PG&E in the State of California as herein  
9 alleged. On information and belief, at a minimum, Defendants ACRT performed such  
10 services in connection with the Atlas Fire, and may have performed vegetation  
11 management services in connection with additional separate fires.

12       13. Defendant Davey Resource Group, Inc. Davey Resource Group, Inc.,  
13 ("Davey Resource") is a corporation organized and existing under the laws of  
14 Delaware with its principal place of business in Kent, Ohio. At all relevant times,  
15 Davey Resource has been licensed to do business in and actually conducted business  
16 in the State of California. Davey Resource is a professional services company offering  
17 a suite of vegetation management services for utility operations, including  
18 performance of pre-inspection duties for utilities' vegetation management programs,  
19 auditing or quality control of vegetation management work, creation of vegetation  
20 clearance work orders, and other related vegetation management work. In the course  
21 of said business, Davey Resource was hired by and performed vegetation  
22 management services for PG&E in the State of California as herein alleged. On  
23 information and belief, at a minimum, Davey Resource performed such services in  
24 connection with the Atlas, Partrick, Nuns, and Tubbs Fires, and may have performed  
25 vegetation management services in connection with additional separate fires.

26       14. Defendant Davey Tree Expert Company. Davey Tree Expert Company  
27 ("Davey Tree Expert") is a corporation organized and existing under the laws of Ohio

1 with its principal place of business in Kent, Ohio. At all relevant times, Davey Tree  
2 Expert has been licensed to do business in and actually conducted business in the  
3 State of California. Davey Tree Expert is a professional services company offering a  
4 suite of vegetation management services for utility operations, including responding  
5 to vegetation management work orders, performance of line clearance for vegetation  
6 issues, recording and logging clearance work performed, and, in the course of said  
7 business, was hired by and performed vegetation management services for PG&E in  
8 the State of California as herein alleged. On information and belief, at a minimum,  
9 Davey Tree Expert performed such services in connection with the Adobe, Atlas,  
10 Norrbom, Nuns, Partrick, Tubbs, and Sulphur Fires, and may have performed  
11 vegetation management services in connection with additional separate fires.

12       15.    Defendant Davey Tree Surgery Company. Davey Tree Surgery Company  
13 ("Davey Tree Surgery") is a corporation organized and existing under the laws of  
14 Delaware with its principal place of business in Kent, Ohio. At all relevant times,  
15 Davey Tree Surgery has been licensed to do business in and actually conducted  
16 business in the State of California. Davey Tree Surgery is a professional services  
17 company offering a suite of vegetation management services for utility operations,  
18 including responding to vegetation management work orders, performance of line  
19 clearance for vegetation issues, recording and logging clearance work performed, and,  
20 in the course of said business, was hired by and performed vegetation management  
21 services for PG&E in the State of California as herein alleged. On information and  
22 belief, at a minimum, Davey Tree Surgery performed such services in connection  
23 with the Adobe, Atlas, Norrbom, Nuns, Partrick, Tubbs, and Sulphur Fires, and may  
24 have performed vegetation management services in connection with additional  
25 separate fires.

26       16.    Defendant Osmose Utilities Services. Osmose Utilities Services, Inc.  
27 ("Osmose") is a corporation organized and existing under the laws of Delaware with

1 its principal place of business in Peachtree City, Georgia. At all relevant times,  
2 Defendant Osmose has been licensed to do business in and actually conducted  
3 business in the State of California. Osmose provides infrastructure construction and  
4 support services. The Company offers remedial treatment, pole restoration, barrier  
5 protection, ground wire molding, woodpecker repairing, and other related services.  
6 On information and belief, at a minimum, Osmose performed such services in  
7 connection with the Sulphur Fire, and may have performed vegetation or pole  
8 restoration management services in connection with separate additional fires.

9       17. At all relevant times, each VM Defendant was a business entity doing  
10 business in the State of California. Each VM Defendant held itself out as an expert in  
11 one or more of (1) performance of pre-clearance line inspection for vegetation issues,  
12 (2) performance of line clearance of vegetation issues, or (3) auditing or quality  
13 control of vegetation management work. At all relevant times, each Defendant was  
14 hired by PG&E to perform services in connection with its VM Program, with such  
15 services to be performed in California.

16       18. Each Defendant was a contractor, vendor, supplier, or third-party  
17 contractor of PG&E, as defined in the Plan. Thus, PG&E's claims against the  
18 Defendants are included in the Plan's Assigned Rights and Causes of Action. To the  
19 extent that one or more of the Defendants have been purchased by, merged into, or  
20 changed its form such that it is now owned and/or controlled by a successor, the  
21 Trustee asserts the claims asserted herein against such successors, and such  
22 successors are liable for the injuries and damages alleged herein. The Trust will seek  
23 leave to amend this Complaint to identify any such successors, once information  
24 regarding any successors is developed and/or confirmed.

25       19. The true names, capacities and basis for liability, whether individual,  
26 corporate, partnership, or otherwise, of Doe Defendants 1 through 25, and each of  
27 them, are unknown to the Trustee, who therefore sues said Defendants by such

1 fictitious names. The Trustee is informed and believes that each Defendant  
2 designated herein as a Doe was in some manner legally responsible for the events,  
3 acts, omissions, and damages alleged herein. Any reference herein to the Defendant  
4 Consultants includes Doe Defendants 1 through 25, inclusive.

5       **B. Jurisdiction and Venue**

6       20. This Court has personal jurisdiction over VM Defendants because this  
7 suit arises from the Wildfires, which occurred in California, caused damage to PG&E  
8 in California, and was caused by Defendants' services performed pursuant to  
9 contracts entered in San Francisco County. Each Defendant is qualified to do  
10 business in the State of California.

11      21. Pursuant to California Code of Civil Procedure § 395(a), venue is proper  
12 in this Court as the agreements that provide a basis for liability herein were entered  
13 into in the County of San Francisco, State of California.

14      22. The allegations contained and remedies sought herein share common  
15 questions of law and fact such that they should be coordinated or otherwise added on  
16 to JCCP 4955, In Re California North Bay Fire Cases.

17       **C. Factual Allegations**

18           **1. PG&E's VM Programs**

19      23. PG&E is a utility company that supplies electrical power by way of  
20 overhead conductors throughout California, from Humboldt County to Santa Barbara  
21 County. PG&E has identified wildfires caused by its electrical equipment as a top  
22 safety and enterprise risk.

23      24. To protect against the risk of wildfires caused by its electrical  
24 equipment, PG&E utilized its VM Program. The policies, processes, procedures, and  
25 practices of PG&E's VM Program are designed to comply with the regulations of the  
26 California Public Utility Commission ("CPUC") and the California Department of  
27 Forestry and Fire Protection ("CAL FIRE"), as well as other relevant laws, statutes

1 and regulations.

2       25. Through its VM Program, PG&E monitors approximately 100,000 miles  
3 of high-voltage overhead lines across a 70,000-square mile service area. Within that  
4 service area, PG&E is responsible for monitoring approximately 120 million trees  
5 that have the potential to grow close to, or fall on, overhead lines.

6       26. During the relevant time period, PG&E's VM Program for its  
7 distribution lines included but was not limited to, Catastrophic Event Memorandum  
8 Account ("CEMA") patrols and Routine patrols. CEMA patrols were a system-wide  
9 program of patrolling PG&E's service area, to identify, prescribe, and document work  
10 to be conducted on hazardous trees that threatened PG&E's overhead lines. Routine  
11 patrols involved patrolling and conducting tree work along PG&E's high-voltage  
12 distribution lines to comply with CPUC General Order 95, Rule 35, and Public  
13 Resources Code sections 4292 and 4293.

14       27. A CEMA patrol or Routine patrol consisted of pre-inspection, tree work,  
15 and quality control analysis of the pre-inspection and tree work.

16       28. PG&E outsourced the entirety of these functions to third-party  
17 vendors—the VM Defendants—that specialized in pre-inspection, tree work, or  
18 quality control.

19       29. PG&E required onboarding or training to be completed by each VM  
20 Defendant. Pursuant to contracts between PG&E and the VM Defendants, it is each  
21 VM Defendant's responsibility to train its workforce.

22       30. Each year, PG&E spends several hundred million dollars on vegetation  
23 management. As part of the vegetation management planning process, PG&E  
24 determines annually the number of planned trees that need to be maintained, as well  
25 as the annual pre-inspection time. To ensure reliability, pre-inspection contractors  
26 are required to meet schedule attainment metrics for both CEMA and Routine  
27 patrols.

1       31. The pre-inspection process involves a contractor's pre-inspectors, also  
2 referred to as consulting utility foresters ("CUFs") or supervising consulting utility  
3 foresters ("SCUFs"), patrolling the lines listed in PG&E's project management  
4 database and looking for vegetation conditions that are potentially problematic for  
5 PG&E's overhead lines.

6       32. Under PG&E's Vegetation Management Improvement Initiative  
7 ("VMII"), pre-inspection contractors can earn an incentive if the actual number of  
8 trees identified for work is less than the pre-set target number.

9       33. On January 12, 2012, the CPUC issued Decision 12-01-032, which  
10 sought to reduce the risk of fire hazards associated with overhead power lines and  
11 communication facilities. The CPUC decision required a determination of the risk of  
12 catastrophic fires in the service territory of electrical utilities caused by their  
13 overhead electrical facilities and the preparation of a fire prevention plan with an  
14 effective date of December 21, 2012<sup>4</sup>. In response to CPUC Decision 12-01-032, PG&E  
15 developed a companywide "Fire Prevention Plan."

16       34. PG&E has developed a number of wildfire safety plans since 2012. Each  
17 VM Defendant was hired by PG&E to be an integral part of its safety plans, and  
18 specifically the implementation and execution of VM Programs to improve safety,  
19 reduce the risk of tree failure into PG&E lines, and prevent wildfires.

20           **2. The Wildfires**

21           (b) **2017 North Bay Fires**

22       35. On Sunday, October 8, 2017, tragedy struck communities across  
23 Northern California when a series of separate fires began to spark and spread. These  
24 deadly fires quickly spread through neighborhoods and destroyed everything in their  
25 path, including residences, vegetation, structures, and businesses.

26       36. The North Bay Fires are collectively some of the most destructive fires

27

28       <sup>4</sup> [https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC\\_4167-E.pdf](https://www.pge.com/nots/rates/tariffs/tm2/pdf/ELEC_4167-E.pdf)

1 in California's history. In just a few weeks, the fires caused the deaths of at least 44  
2 people, hospitalized over 185 individuals, displaced about 100,000 people who were  
3 forced to leave their homes and search for safety, burned over 245,000 acres, and  
4 damaged or destroyed an estimated 14,700 homes, 3,600 vehicles, and 728  
5 businesses. A summary of the specific and distinct fires relevant to this action is as  
6 follows:

(i) The Atlas Fire

8       37. The Atlas Fire started to the south of Lake Berryessa, off Atlas Peak  
9 Road at around 9:52 P.M. on October 8, 2017. The Atlas fire was the largest of the  
10 2017 wildfires in Napa/Sonoma during the 2017 firestorms, covering over 51,000  
11 acres and killing six people. The Atlas Fire started when a Black Oak tree fell on one  
12 of PG&E's Pueblo-1104 12 kV conductors. Close to the same time, a failed branch  
13 from a Valley Oak tree fell at a second location and contacted the same Pueblo line.  
14 The fires started at each of the locations merged and continued to burn towards  
15 Napa.

## (ii) The Sulphur Fire

17       38. The Sulphur Fire started off Highway 20 and Sulphur Bank Road in  
18 Clearlake Oaks, Lake County at around 1:59 P.M. on October 8, 2017. At 11:55 P.M.,  
19 investigators found two power poles failed and knocked down nearby power lines  
20 near Clearlake, Lake County. The Sulphur fire burned 2,207 acres. The fire was  
21 started when the top of a wooden pole supporting PG&E's conductors failed and fell  
22 to the ground. The conductors then contacted the ground and ignited the fire. The  
23 pole failed due to substantial weakening from bird damage, likely a woodpecker nest.

### 3. VM Defendants' Engagement

25       39. Prior to 2017, each VM Defendant entered into a written contract with  
26 PG&E that mandated the provision of vegetation management services. The specific  
27 content has been designated as "Confidential" or otherwise restricted from public

1 disclosure in prior litigation involving these defendants. Plaintiff accordingly  
2 describes the general terms and obligations imposed by the agreements, all of which  
3 are in possession of the defendants.

4           a. patrolling distribution and transmission lines to identify and  
5           assess required tree work, including such hazardous trees or  
6           portions of trees with the potential to fail and come into contact  
7           with high voltage conductors, trees near power lines that could  
8           interfere with PG&E lines, vegetation with the potential to grow  
9           into the primary conductors before the next annual trim or which  
10          is currently causing strain/abrasion of the secondary conductors,  
11          or trees which will not hold minimum clearance,  
12          b. mandates on the required timing of certification and training for  
13          inspectors,  
14          c. prescribing work to be performed,  
15          d. entering work identified and prescription information into the  
16          PG&E Vegetation Management Data Base (VMDB),  
17          e. editing the data in VMDB and creating work request form(s), and  
18          f. either undertaking to perform the work requested or assigning  
19          the work to other PG&E contractors, as directed by PG&E.

20 Each VM Defendant is responsible for having a Quality Assurance Auditor to confirm  
21 contractual compliance. Such auditor is required to have specific educational or  
22 vocational training and experience. The essence of each VM Defendant's contract was  
23 to ensure the safe and reliable operation of all PG&E distribution lines in compliance  
24 with state laws and regulations.

25         40. Additionally, each VM Defendant's contract contained a requirement  
26 that each respective VM Defendant indemnify and hold harmless PG&E from  
27 liability arising from personal injury, property injury/damage, violations of laws, or

1 strict liability imposed by law that is connected in any way with each VM  
2 Defendant's performance of or failure to perform under the contract.

3       41. Additionally, each VM Defendant's contract also obligates it to defend  
4 any action, claim, or suit asserting a claim which might be covered by the above  
5 indemnity, as well as pay all costs and expenses that may be incurred by PG&E in  
6 enforcing the indemnity, including reasonable attorney's fees.

7       42. Each VM Defendant was aware that their contract required it to  
8 indemnify PG&E even for liability that was not the result of VM Defendant's  
9 negligence so long as the liability was in any way connected with Defendant's  
10 performance of or failure to perform under the contract.

11       43. Separate and apart from the indemnity provisions in the VM  
12 Defendants' contracts with PG&E, each VM Defendant's contract required Defendant  
13 to maintain insurance coverage, including Commercial General Liability insurance,  
14 for each occurrence where the VM Defendant's performance under the contract is an  
15 any way connected with fire-related liability. It also required each VM Defendant to  
16 add PG&E as an "Additional Insured" to its Commercial General Liability coverage  
17 requirement with respect to liability arising out of or connected with the work  
18 performed by or for each VM Defendant. Each contract did not specify or limit to  
19 what insurance policies PG&E was to be added as an Additional Insured; rather,  
20 PG&E was to be added as an Additional Insured on each policy covering an instance  
21 where each VM Defendant was required to maintain Commercial General Liability  
22 insurance. The Pre-Inspection Contract also required that each VM Defendant's  
23 insurance policies must specify that Defendant's insurance is primary and that any  
24 insurance or self-insurance maintained by PG&E shall not contribute with it.

25       44. Each VM Defendant's contract contains a provision stating that if it fails  
26 to add PG&E as an Additional Insured, it must stand in the shoes of its insurance  
27 carrier to the same extent as an insurer issuing ISO form occurrence coverage

1 without coverage deletions. Failure to do so, results in further damages, including  
2 attorney's fees and punitive damages.

3       45. As part of their contracts, VM Defendants were required to attain  
4 schedule requirements on a weekly basis to ensure that trees adjacent to or near  
5 PG&E's system lines are adequately inspected. During the term of the contract,  
6 however, Defendants continually and repeatedly fell behind their schedule  
7 attainment requirements, including leading up to the Wildfires, sometimes by as  
8 much as a year. In the North Bay Division alone, in October 2017, more than 3,000  
9 trees were two months behind VM Defendants' pre-inspection schedule.

10      46. Moreover, in 2017, PG&E required its pre-inspection contractors,  
11 including VM Defendants, to identify 23 percent of the trees marked for treatment to  
12 be marked for removal. A removal designation served to both lower the risk of fire by  
13 protecting the electrical equipment and by diminishing the need for future tree work  
14 on trees with the potential to contact power lines. Yet VM Defendants routinely  
15 missed the removal threshold.

16      47. At the time of the Wildfires, VM Defendants' pre-inspectors regularly  
17 discussed amongst themselves how far behind schedule Defendants were in  
18 complying with their contractual duties to inspect PG&E's power lines for hazardous  
19 trees.

20      48. VM Defendants were aware that their pre-inspectors did not have  
21 adequate training to identify trees subject to the relevant contractual standards.

22      49. VM Defendants were also aware that their pre-inspectors did not have  
23 the contractually-required educational background and/or credentials to comply with  
24 the Pre-Inspection Contract. VM Defendants also knew those inspectors were not  
25 properly certified as required under the terms of the agreement.

26      50. VM Defendants were aware that their pre-inspectors did not know of or  
27 have the requisite knowledge to understand how to determine whether an inspection

1 complied with requisite contractual and industry standards. Despite their awareness,  
2 VM Defendants did not test their pre-inspectors' knowledge of the relevant inspection  
3 and trimming standards. Nor did they ensure that their pre-inspectors read relevant  
4 materials designed to educate them about the relevant inspection and trimming  
5 standards.

6       51.     VM Defendants were further aware that their pre-inspectors had rushed  
7 through their pre-inspection work when they fell behind their scheduled attainment  
8 requirements.

9       52.     When VM Defendants fell behind schedule, their pre-inspectors would  
10 attempt to rush through their work in order to qualify for contractual financial  
11 incentives.

12       53.     At all times herein alleged, and prior to the Wildfires, each VM  
13 Defendant, was aware that if they failed to perform their duties, as required under  
14 their agreements with PG&E, to the standard required of an expert in the industry,  
15 there was a significant risk of fire, damage to property owned by members of the  
16 general public, and the death to members of the general public. The VM Defendants  
17 failed to inspect the trees as required under the terms of the contract, specifically  
18 including, but not limited to, failing to inspect, prune, remove and identify trees as  
19 required by PG&E Vegetation Management program.

20       54.     Specifically, each VM Defendant was aware of the significant wildfire  
21 risk posed by trees or other vegetation coming into contact with high voltage  
22 electrical transmission and distribution lines during high wind events in Northern  
23 California. More specifically, each VM Defendant was aware that prior to the  
24 Wildfires, the State of California, and in particular the counties affected by the  
25 Wildfires, had been in a prolonged state of drought. VM Defendants, and each of  
26 them, knew or should have known that the drought conditions had existed for a  
27 number of years and that fire danger was at an extraordinarily high level. VM

28

LAW OFFICES OF  
WALKUP, MELODIA, KELLY  
& SCHOENBERGER  
A PROFESSIONAL CORPORATION  
650 CALIFORNIA STREET  
26TH FLOOR  
SAN FRANCISCO, CA 94108  
(415) 981-7700

1 Defendants, and each them, as arborists and vegetation experts, were aware or  
2 should have been aware that, at the time of the Wildfires, there was an abundance of  
3 undergrowth and other fuels such that the risk of a catastrophic fire was high. Each  
4 VM Defendant was aware that there had been a long history of large-scale wildfires  
5 ignited during high winds, like the Santa Ana winds, causing trees to fall into PG&E  
6 electrical equipment, as well as other utilities' electrical equipment, across  
7 California.

8       55.   Each VM Defendant knew or should have known that the members of  
9 the public were at great risk if they failed to fulfill their duties and perform to the  
10 standard of an expert in the utility arborist industry. Each VM Defendant knew that  
11 if the lines came into contact with vegetation a fire would likely result and that,  
12 given the drought and other weather conditions such as the Santa Ana winds, the  
13 resulting fire could cause loss of life, personal injury, significant damage to real and  
14 personal property, and other damage to members of the general public. The risk of  
15 improperly trimmed or removed trees starting large-scale, costly, and deadly  
16 wildfires by failing during high wind events and hitting electrical equipment was  
17 well-documented and foreseeable to any reasonable company providing vegetation  
18 management services to a utility. As a result of this known danger, each VM  
19 Defendant had a heightened duty of care.

20       56.   Each VM Defendant held itself out as fully competent to perform and as  
21 a professional expert with sufficient expert skill, training, and knowledge to identify  
22 and trim or remove dangerous vegetation in close proximity to PG&E's infrastructure  
23 and electrical operations. Accordingly, each VM Defendant's conduct should be  
24 assessed under such professional standards.

25       57.   In addition, each VM Defendant had a duty to properly inspect and  
26 identify trees and other vegetation that posed a risk to, or was endangered by,  
27 PG&E's electrical lines, to mark such trees and other vegetation for work or removal,

1 and to remove or trim trees and other vegetation. Proper performance of these duties  
2 was necessary for each VM Defendant to comply with applicable standards of care,  
3 including but not limited to the Public Resources Code, industry standards, and  
4 PG&E's policies and procedures.

5       58.    Each VM Defendant received lucrative contracts from PG&E to mitigate  
6 wildfire risk. Each VM Defendant executed one or more Master Services Agreements  
7 ("MSA") with PG&E to provide vegetation management services in support of  
8 PG&E's duty to operate its electrical equipment without causing fires. The primary  
9 purpose of each MSA was to provide a set of terms, conditions, and requirements that  
10 would apply to each VM Defendant's work for PG&E. In most cases, each VM  
11 Defendant's work was also governed by a specific Contract Work Authorization  
12 ("CWA") entered into under the respective MSA. The work performed by each VM  
13 Defendant under the relevant CWA was intended to identify and mitigate the risk of  
14 vegetation hitting PG&E transmission and distribution lines during high wind  
15 events, and thus reduce the risk of widespread wildfires being ignited by PG&E lines  
16 and dangerously spreading uncontrolled through communities across Northern  
17 California.

18       59.    Each VM Defendant was aware that if it failed to perform its  
19 contractual duties to the standard required of a professional expert, a significant risk  
20 existed of a catastrophic wildfire causing injury and death to persons within the fire  
21 perimeters as well as extraordinary property damage.

22       60.    Each VM Defendant undertook the duty to properly and reasonably  
23 perform vegetation management work to identify and remediate vegetation issues  
24 around PG&E lines.

25       61.    Each VM Defendant undertook the duty to use its professional training  
26 and experience, best efforts, and reasonable care to protect foreseeable victims of  
27 fires caused by PG&E's equipment, namely, Californians in the areas serviced by

1 PG&E's electrical system.

2       62. Each VM Defendant, in performing under its contracts with PG&E,  
3 understood and recognized that vegetation management services were for the benefit  
4 of both PG&E and the citizens of California, who were at risk of injury and damage  
5 from wildfires caused by trees or vegetation coming into contact with or otherwise  
6 damaging PG&E's electrical system.

7       63. Each VM Defendant also failed to take contractually required and  
8 industry-standard precautions that would have prevented the Wildfires from  
9 occurring.

10           **4. PG&E Bankruptcy, Settlement and Assignment of Rights  
11 to the Fire Victim Trust**

12       64. Each VM Defendant's respective failure to provide the contracted  
13 services to PG&E, or to do so competently, caused devastating financial losses for  
14 PG&E in the form of its own equipment losses, as well as liabilities (both via strict  
15 liability and otherwise) to third parties who suffered death, personal injury, or  
16 property damage as a result of the Wildfires.

17       65. As alleged above, PG&E under the Plan assigned to the Fire Victim  
18 Trust the right to bring the Assigned Rights and Causes of Action to provide  
19 compensation to victims of the Wildfires, including claims for damages and  
20 indemnification on behalf of PG&E.

21       66. Among the claims resolved by the Plan were claims based on any theory  
22 of inverse condemnation. (*See In re PG&E, supra*, Docket Entry No. 8053.)

23       67. Inverse condemnation is a legal principle, rooted in the California  
24 Constitution whereby utilities such as PG&E are held strictly liable for damage  
25 arising from fires caused by utility electrical equipment. (*See Cal. Const., art. I, § 19.*)

26       68. On November 26, 2019, the Bankruptcy Court held that inverse  
27 condemnation applied to PG&E for all of the 2017 Northern California Wildfires and

1 the 2018 Camp Fire. (See *In re PG&E, supra*, Docket Entry No. 4895.)

2       69. As the Bankruptcy Court explained: "In short, the California  
3 Constitution imposes strict liability in favor of the owner of property that has been  
4 taken or damaged through a public use or purpose and does not concern itself with  
5 the rights or liabilities of whom or what did the damage. It is a form of strict liability  
6 imposed on the party causing, or whose equipment caused, the damage." (*Id.* at 3.)

7       70. Each VM Defendant's indemnity obligations to PG&E include, but are  
8 not limited to, the obligation to indemnify PG&E for its strict liability associated with  
9 inverse condemnation based on the Wildfires. This indemnification obligation, and  
10 other indemnification obligations of the VM Defendants, are within the Assigned  
11 Rights and Causes of Action assigned to the Trust.

12       71. As part of its Plan, PG&E agreed to settle its wildfire liabilities,  
13 including but not limited to inverse condemnation liabilities, to injured third parties,  
14 for a total of \$25.5 billion, of which \$13.5 billion was allocated for wildfire victims,  
15 \$11 billion was allocated for the subrogated insurers of wildfire victims, and \$1  
16 billion was allocated to certain public entities.

17       72. The \$13.5 billion allocated to wildfire victims was distributed to the  
18 Trust for individual allocation to wildfire victims through a claims-handling process.

19       73. On July 1, 2020, the assignment of the Assigned Rights and Causes of  
20 Action to the Trust became effective under the Plan.

21       74. Each VM Defendant has failed to indemnify PG&E for the damage  
22 caused by the Wildfires.

23       75. Claims to recover for each VM Defendant's failure to add PG&E as an  
24 Additional Insured under its general liability policies as required under each VM  
25 Defendant's contracts with PG&E, are within the Assigned Rights and Causes of  
26 Action assigned to the Trust.

27 ////

## CAUSES OF ACTION

**FIRST CAUSE OF ACTION**

**For Breach of Contract – Performance and Express Contractual Indemnity  
(Against All VM Defendants)**

76. The Trustee incorporates by reference, as though set forth in full herein, paragraphs 1 through 75 of this Complaint.

77. Each VM Defendant and PG&E entered into a series of written contracts in the form of MSAs and CWAs, as herein alleged.

9        78.     PG&E performed all, or substantially all, of the significant conditions,  
10 covenants, promises, and duties to be performed by it under its contracts with the  
11 VM Defendants, or such obligations have been excused.

12        79. All of the conditions that were required for each VM Defendant to  
13 perform under its respective contracts with PG&E have been satisfied and occurred.

14        80. A material term of each contract with the VM Defendants was that they  
15 would perform vegetation management work to identify, remove or trim vegetation  
16 within striking distance of PG&E's transmission and distribution lines pursuant to  
17 regulatory and industry standards to prevent vegetation from coming into contact  
18 with, or other damaging, PG&E equipment, especially during high wind events. VM  
19 Defendants were aware that improperly managed vegetation presented a significant  
20 risk of igniting wildfires.

21        81. A material term of each contract with the VM Defendants was that they  
22 would perform vegetation management work to comply with regulatory requirements  
23 of vegetation utility line clearance, including but not limited to:

- a. pre-clearance inspection of PG&E transmission and distribution lines to identify vegetation needing trimming, pruning or removal,
- b. timely clearance of vegetation in close proximity to PG&E

transmission and distribution lines identified as needing trimming, pruning or removal,

- c. proper training of employees to recognize hazardous and dangerous trees and vegetation in close proximity to PG&E transmission and distribution lines, and
- d. compliance with vegetation management laws and regulations.

7       82. An express or implied term of each contract with the VM Defendants  
8 was that they would provide competent vegetation management services to PG&E,  
9 pursuant to its contractual obligations, so as to identify and mitigate vegetation that  
10 posed a risk to PG&E lines, in compliance with the applicable statutes, regulations,  
11 and standards.

12        83. The Wildfires were a direct, proximate, and legal result of each VM  
13 Defendant's breach of the express and implied terms of its contracts with PG&E by  
14 failing to perform vegetation management services with diligence and reasonable  
15 care.

16        84. Each VM Defendant further failed to provide competent vegetation  
17 management services to PG&E, pursuant to its contractual obligations to ensure the  
18 proper maintenance and safe operation of PG&E's electrical equipment in compliance  
19 with the applicable statutes, regulations and standards, resulting in the Wildfires.

20        85. Each VM Defendant's breaches under its respective contracts also  
21 include failure to trim, prune or remove trees and other vegetation that posed a risk  
22 of starting a fire by coming into contact or damaging PG&E's transmission or  
23 distribution lines. Defendants further failed to institute or recommend increasing the  
24 frequency and quality of inspections and line clearance as part of PG&E's VM  
25 Program. VM Defendants' failures resulted in the Wildfires.

26        86. As a result of each VM Defendant's failure to perform its express and  
27 implied contractual duties, PG&E has suffered damages, including incurring liability

1 for personal injury, wrongful death, and property damage caused by the Wildfires.  
2 PG&E's liabilities arose from claims against it based on general negligence in the  
3 management of the electrical infrastructure, negligent violations of law, strict  
4 liability imposed by law, including inverse condemnation, damages incurred by  
5 subrogated insurers who covered claims made by wildfire victims, and damages  
6 sustained by certain public entities.

7       87. Pursuant to the Plan, on the Effective Date, PG&E settled its liability  
8 from the Wildfires to such individuals and entities by, among other things, funding  
9 and committing to fund the Fire Victim Trust.

10      88. Each VM Defendant, pursuant to its contracts with PG&E, is required  
11 to indemnify PG&E for liability for personal injury and wrongful death claims, as  
12 well as all personal damage actions against PG&E arising from each VM Defendant's  
13 activity "connected in any way" to their vegetation management services and  
14 performance under the contracts.

15      89. PG&E, pursuant to the Plan, assigned to the Fire Victim Trust the right  
16 to recover from each VM Defendant its indemnity obligations to PG&E.

17      90. Additionally, each VM Defendant had a contractual duty to PG&E to  
18 protect PG&E's electrical equipment from contact with or damage from trees and  
19 other vegetation by taking due care to competently identify and remove or remediate  
20 hazardous vegetation next to PG&E's lines.

21      91. Each VM Defendant reasonably could have foreseen that its failure to  
22 meet its duties under its contracts would result in wildfires that would destroy  
23 PG&E's electrical equipment, which occurred and caused PG&E to suffer damages.

24      92. As a result of each VM Defendant's breach of its contractual duties,  
25 PG&E suffered damages in an amount to be proven at trial.

26      93. PG&E, pursuant to the Plan, assigned to the Fire Victim Trust the right  
27 to recover damages from the VM Defendants, for the benefit of the victims of the

1 Wildfires, all damages suffered by PG&E based on the VM Defendant Consultants'  
2 above-described breaches of their contractual duties, including their contractual  
3 obligations to indemnify PG&E.

**SECOND CAUSE OF ACTION**

**For Breach of Contract - Insurance  
(Against All VM Defendants)**

7       94. The Trustee incorporates by reference, as though set forth in full herein,  
8 paragraphs 1 through 93 of this Complaint.

9        95. Each of the contracts between the VM Defendants and PG&E required  
10 that each VM Defendant maintain insurance coverage, including Commercial  
11 General Liability insurance with specified minimum coverage limits, and that VM  
12 Defendants add PG&E as an "Additional Insured" to their respective Commercial  
13 General Liability policies.

14        96. On information and belief, each VM Defendant breached its contracts by  
15 failing to ensure that PG&E was added as an “Additional Insured” to VM  
16 Defendants’ respective Commercial General Liability policies.

17        97. On information and belief, PG&E timely tendered an indemnity demand  
18 to each VM Defendant's general liability insurers and demanded that they indemnify  
19 PG&E as an additional insured under the general liability policies.

98. None of the VM Defendants' insurers have paid any portion of the  
damages that PG&E has incurred. Consequently, PG&E has been deprived of the  
insurance coverage that each VM Defendant was obligated to provide under its  
contracts.

24        99. Because VM Defendants' insurance carriers have failed or refused to  
25 indemnify PG&E pursuant to an additional insured endorsement, each VM  
26 Defendant is obligated to stand in the place of its insurers and indemnify PG&E.  
27 Each VM Defendant breached its duty by failing to indemnify PG&E for any portion

1 of the damages that PG&E incurred in settling the Wildfire claims and funding the  
2 Trust.

3       100. The Trust's damages include the amounts that PG&E would have  
4 received under the VM Defendants' insurance policies for indemnity with respect to  
5 the litigation arising out of the Wildfires had the VM Defendants' general liability  
6 policy insurers acknowledged PG&E as an Additional Insured and performed the  
7 duties they owed to PG&E as an Additional Insured.

8        101. Given that VM Defendants stand in the place of their insurers, the  
9 Trust is entitled to an award of attorneys' fees and punitive damages pursuant to the  
10 contract with PG&E.

### **THIRD CAUSE OF ACTION**

**For Breach of Implied Covenant of Good Faith and Fair Dealing  
(Against All VM Defendants)**

14       102. The Trustee incorporates by reference, as though set forth in full herein,  
15 paragraphs 1 through 101 of this Complaint.

16        103. Each VM Defendant and PG&E entered into written contracts in the  
17 form of MSAs and CWAs, as herein alleged.

18       104. PG&E performed all of the conditions required of it under the contracts  
19 with each VM Defendants.

20        105. All of the conditions required for each VM Defendant to perform under  
21 the contract had occurred.

22        106. In each PG&E contract with each VM Defendant, California law implies  
23 a covenant of good faith and fair dealing, pursuant to which neither party may take  
24 or fail to take action that would deprive the other party of the intended benefits of  
25 the contract. In this case, the Defendant Consultants impliedly covenanted that in  
26 performing vegetation management services each VM Defendant would focus its  
27 efforts on the overall safety of the electrical system, and that all work on aspects of

1 the system would be in the context of overall planning for safety. PG&E had a right  
2 under each such contract to receive the benefit of the most experienced and qualified  
3 expertise on vegetation management services, which is what VM Defendants  
4 purported to be selling, to mitigate its own risk and exposure and protect the safety  
5 of Californians.

6        107. Each VM Defendant breached the implied covenant of good faith and  
7 fair dealing when it stalled or otherwise delayed critical vegetation clearance work  
8 without examining the overall impact that its delay would have on the risk of  
9 vegetation-caused electrical grid fires. Each VM Defendant failed to execute its  
10 vegetation management services such that it was capable of keeping up with the  
11 amount of vegetation management work needed for PG&E to safely operate the grid,  
12 thereby denying PG&E of the expertise for which it had bargained.

13        108. By reason of the VM Defendants' breach of the implied covenant of good  
14 faith and fair dealing, PG&E suffered damages. PG&E has assigned to the Trust the  
15 right to recover these damages for the benefit of the victims of the Wildfires.

## **FOURTH CAUSE OF ACTION**

## **For Equitable Indemnity (Comparative Fault Between and Among Tortfeasors)**

**(Against All VM Defendants)**

20       109. The Trustee incorporates by reference, as though set forth in full herein,  
21 paragraphs 1 through 108 of this Complaint.

22        110. As alleged herein, VM Defendants were negligent in the provision of  
23 their vegetation management services to PG&E.

24        111. The negligent conduct of each VM Defendant was a substantial factor in  
25 causing PG&E's equipment to ignite the Wildfires, which resulted in damage to life  
26 and property and caused PG&E to incur billions of dollars in liability in funding the  
27 Plan. PG&E has assigned to the Trust the right to recover these damages for the

1 benefit of the victims of the Wildfires.

2       112. Equity requires that each VM Defendant pay a proportionate share of  
3 damages corresponding to its percentage of responsibility.

## **FIFTH CAUSE OF ACTION**

## For Negligence

**(Against All VM Defendants)**

7       113. The Trustee incorporates by reference, as though set forth in full herein,  
8 paragraphs 1 through 112 of this Complaint.

9        114. Each VM Defendant entered into contracts with PG&E, whereby each  
10 voluntarily and deliberately undertook the duty to act competently to identify and  
11 correct unsafe vegetation conditions, so as to ensure the proper maintenance and safe  
12 operation of PG&E's electrical system in compliance with the applicable statutes,  
13 regulations, and standards.

14        115. It was reasonably foreseeable that each VM Defendant's vegetation  
15 management services would directly impact Californians who required protection  
16 from deadly and devastating wildfires caused by vegetation hitting PG&E's electrical  
17 equipment during high wind events. Accordingly, each VM Defendant assumed a  
18 duty of care to both PG&E and to the foreseeable victims of wildfires caused by  
19 vegetation coming into contact with or otherwise damaging PG&E's electrical  
20 infrastructure.

21        116. Each VM Defendant breached its duty by failing to use reasonable care  
22 in the vegetation management work it performed, including by failing to identify,  
23 clear or mitigate vegetation issues that presented a significant risk of igniting  
24 wildfires. Specifically, each VM Defendant breached its duties by failing to (1) inspect  
25 trees and other vegetation so as to ensure compliance with the applicable statutes,  
26 regulations and standards; (2) timely and properly trim and remove vegetation; (3)  
27 properly identify trees and other vegetation that posed a threat to PG&E's electrical

1 lines; and (4) train their employees to recognize hazardous and dangerous trees and  
2 other vegetation. Each VM Defendant also breached its duties by participating in a  
3 program that offered incentives to its employees for reducing the number of trees and  
4 other plants that they marked trimming, removal, or other vegetation management  
5 work.

6       117. Each VM Defendant further breached its duty by failing to use  
7 reasonable care to identify and correct unsafe conditions to ensure the proper  
8 maintenance and safe operation of PG&E's electrical equipment in compliance with  
9 the applicable statutes, regulations, and standards, including with respect to the  
10 dangerous conditions that caused the Wildfires.

11       118. As a result of VM Defendants' negligence in rendering vegetation  
12 management services, Santa Ana winds caused various trees to come into contact  
13 with PG&E electrical lines, which resulted in the Wildfires.

14       119. The negligence of each VM Defendant was a substantial contributing  
15 cause of the Wildfires, resulting in catastrophic loss of life and property.

16       120. As a result of each VM Defendant's negligence, PG&E incurred liability  
17 for personal injury, wrongful death, and property damage caused by the Wildfires.  
18 PG&E's liabilities arose from claims against it based on general negligence in the  
19 management of the electrical infrastructure, negligent violations of law, strict  
20 liability imposed by law, including inverse condemnation, and damages incurred by  
21 subrogated insurers who covered claims made by wildfire victims, and damages  
22 suffered by certain public entities.

23       121. PG&E settled its liability to such individuals and entities as part of the  
24 Plan, thereby suffering damages. In addition, PG&E suffered damages to its  
25 equipment resulting from the Wildfires. Under the Plan, PG&E assigned to the Trust  
26 the right to recover these damages as alleged in this Complaint.

27       ////

28

LAW OFFICES OF  
WALKUP, MELODIA, KELLY  
& SCHOENBERGER  
A PROFESSIONAL CORPORATION  
650 CALIFORNIA STREET  
26TH FLOOR  
SAN FRANCISCO, CA 94108  
(415) 981-7211

28

## **SIXTH CAUSE OF ACTION**

## **For Professional Negligence (Against All VM Defendants)**

122. The Trustee incorporates by reference, as though set forth in full herein, paragraphs 1 through 121 of this Complaint.

123. Each VM Defendant represented to PG&E that it was a professional expert vegetation management with specialized training and expert skill in identifying and trimming and removing dangerous vegetation in close proximity to utility infrastructure.

124. Each VM Defendant owed a duty to PG&E, as well as to reasonably foreseeable fire victims of a PG&E-caused wildfire, to exercise the skill and care that a skilled professional would use in the work performed for PG&E.

125. By reason of the foregoing, each VM Defendant breached its professional duty of care, and failed to exercise the level of skill, care, and diligence that a reasonable professional would exercise to assist PG&E to prevent wildfires resulting from its electrical infrastructure.

126. Each VM Defendant failed to perform its services for PG&E in accord with professional standards of care and their acts and omissions were a substantial contributing cause of the Wildfires and resulting damages, as alleged herein. Under the Plan, PG&E has assigned to the Trust the right to recover these damages from each VM Defendant for the benefit of the victims of the Wildfires.

## **SEVENTH CAUSE OF ACTION**

## **Unjust Enrichment**

(Against Defendants ACRT Pacific, LLC and ACRT, Inc.; Davey Resource Group, Inc., Davey Tree Expert Company; Davey Tree Surgery Company; and Does 1 through 25)

127. The Trustee incorporates by reference, as though set forth in full herein,

1 paragraphs 1 through 126 of this Complaint.

2       128. Each Defendant failed to provide competent services to PG&E,  
3 breaching to its contractual obligations, so as to ensure operation of PG&E's  
4 electrical equipment in compliance with the applicable statutes, regulations and  
5 standards, thereby causing the Wildfires.

129. As a result of each Defendant's failures, PG&E suffered damages as  
alleged herein.

8        130. Nevertheless, and despite their failures to perform its obligations and  
9 duties to prevent PG&E equipment from causing wildfires, Defendants received  
10 substantial sums from PG&E for ‘emergency’ work authorized in the aftermath of the  
11 2017 fires.

12        131. Accordingly, each Defendant was unjustly enriched at PG&E's expense  
13 because each received the financial benefit of being awarded contracts with PG&E to  
14 perform additional vegetation management work under higher rates, and on  
15 information and belief, to perform work that should have already been performed  
16 under non-emergency vegetation management contracts.

## **PRAYER FOR RELIEF**

18 Wherefore, Plaintiff John K. Trotter, Jr., Trustee of the PG&E Fire Victim  
19 Trust, prays for judgment against each VM Defendant as follows:

20           a. For damages according to proof at trial;

21           b. For complete or partial indemnity for the obligations and

22                 damages incurred and Assigned to the Trustee;

23           c. For pre-judgment interest;

24           d. For attorney's fees and punitive damages according to

25                 Defendants' contracts with PG&E;

26           e. For attorneys' fees, expert fees, consultant fees, and other

27                 litigation expenses, as permitted by law;

1                   f.     For costs of suit herein;  
2                   g.     For such other and further relief as the Court may deem just and  
3                   proper.

4                   **DEMAND FOR JURY TRIAL**

5                   Plaintiff hereby demands a jury trial.

6                   Dated: January 28, 2021

WALKUP, MELODIA, KELLY & SCHOENBERGER

7                   By: 

8  
9                   MICHAEL A. KELLY  
10                  KHALDOUN A. BAGHDADI  
11                  650 California Street, 26<sup>th</sup> Floor  
12                  San Francisco, CA 94108  
13                  Tel: (415) 981-7210  
14                  Fax: (415) 391-6965  
15                  [mkelly@walkuplawoffice.com](mailto:mkelly@walkuplawoffice.com)  
16                  [kbaghdadi@walkuplawoffice.com](mailto:kbaghdadi@walkuplawoffice.com)

17                  Dated: January 28, 2021

18                  ANDREWS & THORNTON

19                  By:

20                  */s/ Anne Andrews*  
21                  ANNE ANDREWS  
22                  JOHN C. THORNTON  
23                  SEAN T. HIGGINS  
24                  ROBERT S. SIKO  
25                  4701 Von Karman Ave., Suite 300  
26                  Newport Beach, CA 92660  
27                  Tel (949) 748-1000  
28                  Fax (949) 315-3540  
29                  [aa@andrewsthornton.com](mailto:aa@andrewsthornton.com)  
30                  [jct@andrewsthornton.com](mailto:jct@andrewsthornton.com)  
31                  [shiggins@andrewsthornton.com](mailto:shiggins@andrewsthornton.com)  
32                  [rsiko@andrewsthornton.com](mailto:rsiko@andrewsthornton.com)

33                  Attorneys for Plaintiff John K. Trotter,  
34                  Jr., Trustee of the PG&E Fire Victim  
35                  Trust

36                  (additional counsel listed on following  
37                  pages)

1 Dated: January 28, 2021

GREENBERG GROSS LLP

2  
3 By: /s/ Alan A. Greenberg  
4 ALAN A. GREENBERG  
5 WAYNE R. GROSS  
6 EVAN C. BORGES  
7 601 South Figueroa Street, 30<sup>th</sup> Floor  
8 Los Angeles, California 90017  
9 Tel: (213) 334-7000  
10 Fax: (213) 334-7001  
11 AGreenberg@GGTrialLaw.com  
12 WGross@GGTrialLaw.com  
13 EBorges@GGTrialLaw.com

14 Dated: January 28, 2021

COTCHETT PITRE & McCARTHY

15  
16 By: /s/ Frank M. Pitre  
17 FRANK M. PITRE  
18 San Francisco Airport Office Center  
19 840 Malcolm Road, Suite 200  
20 Burlingame, CA 94010  
21 Tel: (650) 697-6000  
22 Fax: (650) 697-0577  
23 fpitre@cpmlegal.com

24 Attorneys for Plaintiff John K. Trotter,  
25 Jr., Trustee of the PG&E Fire Victim  
26 Trust

27 (additional counsel listed on following  
28 pages)

1 Dated: January 28, 2021

DREYER, BABICH, BUCCOLA, WOOD, CAMPORA

2  
3 By: /s/ Steven M. Campora  
4 STEVEN M. CAMPORA  
5 20 Bicentennial Circle  
6 Sacramento, CA 95826  
7 Tel: (916) 379-3500  
Fax: (916) 379-3599  
scampora@dbbw.com

8 Dated: January 28, 2021

COREY, LUZAICH, DE GHETALDI & RIDDLE, LLP

9  
10 By: /s/ Dario de Ghetaldi  
11 DARIO de GHETALDI  
12 700 El Camino Real  
13 PO Box 669  
14 Millbrae, CA 94030  
15 Tel: (650) 871-5666  
Fax: (650) 871-4144  
deg@coreylaw.com

16 Attorneys for Plaintiff John K. Trotter,  
17 Jr., Trustee of the PG&E Fire Victim  
18 Trust

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, <i>number, and address</i> )	
Michael A. Kelly/Khaldoun A. Baghdadi 71640/190111 Walkup, Melodia, Kelly & Schoenberger 650 California Street, 26th Floor San Francisco, CA 94108-2615	
TELEPHONE NO.	(415) 981-7210
FAX NO.	(415) 391-6965
ATTORNEY FOR (Name) Plaintiff John K. Trotter, Jr., Trustee	

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco  
STREET ADDRESS: 400 McAllister Street  
MAILING ADDRESS:  
CITY AND ZIP CODE San Francisco, CA 94102  
BRANCH NAME Unlimited Jurisdiction

CASE NAME: Trotter v. ACRT Pacific, LLC, ACRT, Inc., Davey Resource Group, Inc., Davey Tree Expert Company, Davey Tree Surgery Company, Osmose Utilities Services, et al.

## CIVIL CASE COVER SHEET

Unlimited  Limited  
(Amount demanded exceeds \$25,000)  (Amount demanded is \$25,000 or less)

## Complex Case Designation

Counter  Joinder

Filed with first appearance by defendant  
(Cal. Rules of Court, rule 3.402)

JUDGE

DEPT.

CGC-21-589441

Deputy Clerk

CLERK OF THE COURT

*J. C. Trotter*

Case Number

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case.

## Auto Tort

Auto (22)  
 Uninsured motorist (46)

## Other PI/PD/WD (Personal Injury/Property

## Damage/Wrongful Death) Tort

Asbestos (04)  
 Product liability (24)  
 Medical malpractice (45)  
 Other PI/PD/WD (23)

## Non-PI/PD/WD (Other) Tort

Business tort/unfair business practice (07)  
 Civil rights (08)  
 Defamation (13)  
 Fraud (16)  
 Intellectual property (19)  
 Professional negligence (25)  
 Other non-PI/PD/WD tort (35)

## Employment

Wrongful termination (36)  
 Other employment (16)

## Contract

Breach of contract/warranty (06)  
 Rule 3.740 collections (09)  
 Other collections (09)  
 Insurance coverage (18)  
 Other contract (37)

## Real Property

Eminent domain/inverse condemnation (14)  
 Wrongful eviction (33)  
 Other real property (26)

## Unlawful Detainer

Commercial (31)  
 Residential (32)  
 Drugs (38)

## Judicial Review

Asset forfeiture (05)  
 Petition re: arbitration award (11)  
 Writ of mandate (02)  
 Other judicial review (39)

## Provisionally Complex Civil Litigation

(Cal. Rules of Court, rules 3.400-3.403)

Antitrust/Trade regulation (03)  
 Construction defect (10)  
 Mass tort (40)  
 Securities litigation (28)  
 Environmental/Toxic tort (30)  
Insurance coverage claims arising from the above listed provisionally complex case types (41)

## Enforcement of Judgment

Enforcement of Judgment (20)

## Miscellaneous Civil Complaint

RICO (27)  
 Other complaint (not specified above) (42)

## Miscellaneous Civil Petition

Partnership and corporate governance (21)  
 Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a.  Large number of separately represented parties  
b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve  
c.  Substantial amount of documentary evidence  
d.  Large number of witnesses  
e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court  
f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): Seven

5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 28, 2021

Khalidoun A. Baghdadi

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties In Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties In Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

### CASE TYPES AND EXAMPLES

#### Auto Tort

- Auto (22)-Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*If the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

#### Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
  - Medical Malpractice-Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

#### Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

#### Employment

- Wrongful Termination (36)
- Other Employment (15)

#### Contract

- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease
  - Contract (*not unlawful detainer or wrongful eviction*)
  - Contract/Warranty Breach-Seller Plaintiff (*not fraud or negligence*)
  - Negligent Breach of Contract/Warranty
  - Other Breach of Contract/Warranty
  - Collections (e.g., money owed, open book accounts) (09)
  - Collection Case-Seller Plaintiff
  - Other Promissory Note/Collections Case
  - Insurance Coverage (*not provisionally complex*) (18)
  - Auto Subrogation
  - Other Coverage
  - Other Contract (37)
    - Contractual Fraud
    - Other Contract Dispute

#### Real Property

- Eminent Domain/Inverse Condemnation (14), Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

#### Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*If the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

#### Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ-Administrative Mandamus
  - Writ-Mandamus on Limited Court Case Matter
  - Writ-Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal-Labor Commissioner Appeals

#### Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

#### Enforcement of Judgment

- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment (*non-domestic relations*)
  - Sister State Judgment
  - Administrative Agency Award (*not unpaid taxes*)
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

#### Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
  - Declaratory Relief Only
  - Injunctive Relief Only (*non-harassment*)
  - Mechanics Lien
  - Other Commercial Complaint Case (*non-tort/non-complex*)
  - Other Civil Complaint (*non-tort/non-complex*)

#### Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Electoral Contest
  - Petition for Name Change
  - Petition for Relief from Late Claim
  - Other Civil Petition

**PROOF OF SERVICE**  
Trotter v. ACRT Pacific, LLC, et al.  
Case No. CGC-21-589441

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the county where the mailing took place. My business address is 650 California Street, 26th Floor, City and County of San Francisco, CA 94108-2615.

On the date set forth below, I caused to be served true copies of the following document(s) described as:

## **NOTICE OF SUBMISSION FOR COORDINATION**

to:

9 Aldo E. Ibarra, Esq.  
Robert M. Blum, Esq.  
Penny Azizi, Esq.  
10 Nixon Peabody, LLP  
One Embarcadero Center, 32nd Floor  
11 San Francisco, CA 94111

Attorneys for Defendants DAVEY  
RESOURCE GROUP, INC.; DAVEY  
TREE EXPERT COMPANY, and DAVEY  
TREE SURGERY COMPANY  
Phone: 415-984-8200  
Fax: 415-984-8300  
Email: [aibarra@nixonpeabody.com](mailto:aibarra@nixonpeabody.com);  
[rblum@nixonpeabody.com](mailto:rblum@nixonpeabody.com);  
[pazizi@nixonpeabody.com](mailto:pazizi@nixonpeabody.com);  
[gcaspersen@nixonpeabody.com](mailto:gcaspersen@nixonpeabody.com);  
[lcardona@nixonpeabody.com](mailto:lcardona@nixonpeabody.com)

15 David S. Wilgus, Esq.  
Burnham Brown  
1901 Harrison Street, 13th Floor  
16 Oakland, CA 94612-3501

Attorneys for Defendant OSMOSE  
UTILITIES SERVICES, INC.  
Phone: 510-835-6803  
Fax: 510-835-6666  
Email: dwilgus@burnhambrown.com;

1 Anne Andrews, Esq.  
18 John C. Thornton, Esq.  
Sean T. Higgins, Esq.  
19 Robert S. Siko, Esq.  
Andrews & Thornton  
20 4701 Von Karman Ave, Suite 300  
Newport Beach, California 92660  
21

Attorneys for Plaintiff JOHN K.  
TROTTER, JR., Trustee of the PG&E  
Fire Victim Trust  
Phone: 949-748-1000  
Fax: 949-315-3540  
Email: [aandrews@andrewsthornton.com](mailto:aandrews@andrewsthornton.com);  
[jct@andrewsthornton.com](mailto:jct@andrewsthornton.com);  
[shiggins@andrewsthornton.com](mailto:shiggins@andrewsthornton.com);  
[rsiko@andrewsthornton.com](mailto:rsiko@andrewsthornton.com):

22 Alan A. Greenberg, Esq.  
23 Wayne R. Gross, Esq.  
24 Evan C. Borges, Esq.  
25 Greenberg Gross LLP  
601 South Figueroa Street, 30th Floor  
Los Angeles, California 90017

Attorneys for Plaintiff JOHN K.  
TROTTER, JR., Trustee of the PG&E  
Fire Victim Trust  
Phone: 213-334-7000  
Fax: 213-334-7001  
Email: [AGreenberg@GGTrialLaw.com](mailto:AGreenberg@GGTrialLaw.com);  
[WGross@GGTrialLaw.com](mailto:WGross@GGTrialLaw.com);  
[EBorges@GGTrialLaw.com](mailto:EBorges@GGTrialLaw.com);

1 Frank M. Pitre, Esq.  
2 Cotchett Pitre & McCarthy  
3 San Francisco Airport Office Center  
4 840 Malcolm Road, Suite 200  
5 Burlingame, CA 94010

Attorneys for Plaintiff JOHN K.  
TROTTER, JR., Trustee of the PG&E  
Fire Victim Trust  
Phone: 650-697-6000  
Fax: 650-697-0577  
Email: foitre@cpmlegal.com:

6 Steven M. Campora, Esq.  
7 Dreyer, Babich, Buccola, Wood, Campora  
8 20 Bicentennial Circle  
9 Sacramento, CA 95826

Attorneys for Plaintiff JOHN K.  
TROTTER, JR., Trustee of the PG&E  
Fire Victim Trust  
Phone: 916-379-3500  
Fax: 916-379-3599  
Email: scampora@dbbw.com:

10 Dario de Ghetaldi, Esq.  
11 Corey, Luzaich, de Ghetaldi &  
12 Riddle, LLP  
13 700 El Camino Real  
14 PO Box 669  
15 Millbrae, CA 94030

Attorneys for Plaintiff JOHN K.  
TROTTER, JR., Trustee of the PG&E  
Fire Victim Trust  
Phone: 650-871-5666  
Fax: 650-871-4144  
Email: deg@coreylaw.com:

16 **ONLY BY ELECTRONIC TRANSMISSION:** Only by e-mailing the  
17 document(s) to the persons at the e-mail address(es) listed based CA Rules of Court,  
18 Emergency Rules Related to COVID-19, Emergency rule 12 "Electronic Service" and  
19 on notice provided on or after March 12, 2020 that, during the Coronavirus (COVID-19)  
20 pandemic, this office will be working remotely, not able to send physical mail as  
21 usual, and is therefore using only electronic mail.

22 I declare under penalty of perjury under the laws of the State of California  
23 that the foregoing is true and correct.

24 Executed on May 17, 2021, at San Francisco, California.

25  
26  
27  
28



---

Lily Connors